

Rules

RULE

Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences Seed Commission

Contaminated Seed Stock—Cheniere Rice (LAC 7:XIII.Chapter 3)

In accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., and R.S. 3:1433, the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, adopts regulations governing the sale, distribution and planting of contaminated seed stock, in particular, Cheniere rice.

In August of 2006, the United States Department of Agriculture (USDA) announced that trace amounts of a genetically modified trait, LibertyLink 601 (LL traits) had been found in the U.S. rice supply. Foundation seed of Cheniere rice produced in 2003 has been found to have LL traits. The announcement also indicated that based on the scientific data reviewed, the USDA and the U.S. Food and Drug Administration concluded that no human health, food safety, or environmental concerns were associated with this genetically modified rice. The rice industry in Louisiana contributes over \$250,000,000 to Louisiana's economy through the sale of rice.

Following that announcement, the rice market has experienced turmoil because of the uncertainty of being able to market such rice, despite the conclusions regarding human health, food safety and environmental concerns. Some rice importing countries have expressed concerns about genetically modified rice. The European Union has stated that the countries in the union will not buy rice contaminated with LL traits. It is vital that Louisiana's rice industry maintain the European Union as a market for Louisiana rice. Further it is necessary to forestall any embargo of rice that comes from Louisiana by other rice importing countries.

These rules are enabled by R.S. 3:1433.

Title 7

AGRICULTURE AND ANIMALS

Part XIII. Seeds

Chapter 3. Contaminated Seed Stock and Other Propagating Stock

§301. Planting of Cheniere Rice and Other Varieties with LL Traits

A. The following seeds may not be sold, offered for sale, or planted in Louisiana as seed for purposes of producing a new plant, except as otherwise provided by this Chapter:

1. the Cheniere variety of rice;
2. any portion of any variety of rice that tests positive, according to tolerances established by the department, for LL traits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 33:990 (June 2007).

§303. Planting of Breeder, Foundation or Registered Cheniere Rice Seed Stock

A. Breeder, Foundation or Registered Cheniere rice seed may be sold, offered for sale or planted in Louisiana only for the purpose of seed stock increase, subject to the sampling and testing requirements set out in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 33:990 (June 2007).

§305. Planting of Breeder, Foundation or Registered Rice Seed of Other Varieties Stock

A. Breeder, Foundation or Registered seed of other varieties of rice where the variety as a whole is found to test positive, according to tolerances established by the department, for LL traits may be sold, offered for sale or planted in Louisiana only for the purpose of seed stock increase, subject to the sampling and testing requirements set out in this Chapter.

B. If a portion of a variety of rice, other than Cheniere rice, is found to test positive for LL traits according to tolerances established by the department, but there is no need to declare the variety as a whole to be contaminated with LL traits then the variety may continue to be planted in Louisiana. However, the portion found to test positive shall be placed under a "stop-sale" order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 33:990 (June 2007).

§307. Sampling of Rice Seed for the Detection of LL Traits

A. Samples of all Breeder, Foundation, Registered and Certified rice seed shall be taken by the Louisiana Department of Agriculture and Forestry (department) for testing. The department shall conduct the testing or cause the testing to be done in laboratories approved by the department. The department shall determine the method and manner of sampling and the number of samples that are needed.

B. Each sample must test negative for LL traits according to tolerances established by the department.

C. All costs incurred by the department in regard to sampling, including but not limited to the taking, transportation, testing, and disposal of samples, shall be paid by the person or entity requesting the sampling.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 33:990 (June 2007).

§309. Stop-Sale

A. If any lot of Breeder, Foundation, Registered or Certified rice seed that are subject to the requirements of this Chapter tests positive for LL traits according to tolerances established by the department then such seed shall be placed under a "stop-sale" order and moved, handled or disposed of only with the express permission of the commissioner or his designate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 33:991 (June 2007).

Bob Odom
Commissioner

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RULE

Board of Elementary and Secondary Education

Bulletin 118—Statewide Assessment Standards and Practices—*Integrated LEAP* and Assessment of Special Populations (LAC 28:CXI.1709-1729, 3306, and 3307)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 118—Statewide Assessment Standards and Practices*: Chapter 17, *Integrated LEAP*, and Chapter 33, Assessment of Special Populations. Bulletin 118 contains the State Board of Elementary and Secondary Education (SBESE) and the Division of Standards, Assessments, and Accountability (DSAA) test policy rules, guidelines, and procedures for easy access during statewide test administration. The purpose of this project is to provide information regarding:

Addition of Achievement Level Descriptors for *iLEAP* in Chapter 17 which causes a reformatting of the Chapter beginning at Subchapter D, §1709 through the end of the Chapter.

Addition of language to Chapter 33, §3306.6.b and §3306.9 and §3307.C.1.d regarding *iLEAP* accommodations for Special Populations.

**Title 28
EDUCATION**

Part CXI. Bulletin 118—Statewide Assessment Standards and Practices

Chapter 17. *Integrated LEAP*

Subchapter D. *iLEAP* Achievement Level Descriptors

§1709. Introduction

A. Achievement level descriptors for Louisiana assessments were developed by committees composed of Louisiana educators who represented the subjects and grades assessed. They define what a student should know and be able to do at each achievement level for each subject assessed at a given grade level.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7 and R.S. 17:24.4(F)(2).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:990 (June 2007).

§1711. Grade 3 Achievement Level Descriptors

A. Grade 3 English Language Arts Achievement Level Descriptors

| Advanced |
|---|
| <p>Students scoring at the Advanced level in English Language Arts generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. identify word meanings using a variety of strategies; 2. demonstrate both literal and inferential understanding of what they read by making inferences, generalizations, and predictions; drawing conclusions; extending ideas; and making connections between what they read and their own experiences; 3. identify story elements, literary devices, and author's purpose; 4. research a topic by locating, selecting, and evaluating appropriate information from multiple print and electronic sources for a specified purpose; 5. identify parts of a bibliographic entry using a model; 6. use critical and/or creative thinking in response to a writing task; 7. develop a response with a central idea, logical organization, thorough elaboration, and transitional words and/or phrases; 8. demonstrate an awareness of audience through use of effective vocabulary, sentence patterns, and personal style; and 9. maintain consistent command of sentence formation, usage, mechanics, and spelling. |
| Mastery |
| <p>Students scoring at the Mastery level in English Language Arts generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. identify words with multiple meanings using various strategies; 2. demonstrate understanding of what they read by making inferences, drawing conclusions, and identifying main ideas and cause/effect relationships; 3. identify story elements, literary devices, and an author's purpose for writing; 4. make connections between different elements within the text and their own experiences; 5. research a topic by locating information from a variety of print and electronic sources for a specified purpose; 6. identify parts of a bibliographic entry using a model; 7. use critical and/or creative thinking in response to a writing task; 8. develop a response with a central idea, logical organization, elaboration with supporting details, and transitions; 9. demonstrate audience awareness through use of selected vocabulary, varied sentence patterns, and a personal style; and 10. demonstrate reasonable command of sentence formation, usage, mechanics, and spelling. |
| Basic |
| <p>Students scoring at the Basic level in English Language Arts generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. use knowledge of basic decoding skills to identify word meanings; 2. demonstrate understanding of what they read by locating specific details and information, identifying main ideas, making simple inferences, and drawing simple conclusions; 3. make obvious connections between elements within texts and their own experiences; 4. identify an author's purpose for writing, including informing; 5. research a topic by locating information from multiple commonly used print and electronic sources; 6. identify parts of bibliographic entries using a model; 7. use some critical and/or creative thinking in response to a writing task; 8. develop a response with a central idea, observable organization, supporting details, and some translations; 9. demonstrate audience awareness through use of grade-appropriate vocabulary and sentence patterns; and 10. demonstrate partial command of sentence formation, usage, mechanics, and spelling. |

| Approaching Basic |
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| <p>Students scoring at the Approaching Basic level in English Language Arts generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. identify meanings of some grade-appropriate vocabulary; 2. demonstrate understanding of what they read, including identifying main events and details, making simple predictions, and sequencing events; 3. identify how elements within a text relate to each other and their personal experiences; 4. research a topic by locating information in commonly used sources; 5. identify some parts of bibliographic entries using a model; 6. demonstrate a partial response to a writing task; 7. develop a response with a vague central idea, weak organization, and minimal detail; 8. demonstrate limited audience awareness through use of simple and/or inappropriate vocabulary, simple sentences, and minimal evidence of personal style; and 9. demonstrate inconsistent or little command of sentence formation, usage, mechanics, and spelling. |
| Unsatisfactory |
| <p>Students scoring at the Unsatisfactory level in English Language Arts have not demonstrated the fundamental knowledge and skills needed for the next level of schooling. Students scoring at this level need to develop the ability to:</p> <ol style="list-style-type: none"> 1. demonstrate an understanding of what they read; 2. make connections between information in texts and their own experiences; 3. locate information in commonly used sources; 4. develop an appropriate response to a writing task; 5. construct a response with a focused central idea, observable organization, and sufficient supporting details; 6. show audience awareness through use of appropriate vocabulary, varied sentence structure, and personal style, and 7. demonstrate acceptable command of sentence formation, usage, mechanics, and spelling. |

B. Grade 3 Mathematics Achievement Level Descriptors

| Advanced |
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| <p>Students scoring at the Advanced level in Mathematics generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. use mathematical reasoning to connect procedures and concepts among different areas of content strands; 2. communicate thoughts, procedures, and solutions using mathematical language and symbols in complex real-world problems; 3. represent data in multiple formats; 4. use models to discuss probability; 5. apply strategies of measurement to solve real-world problems; 6. apply concepts of geometry to solve real-world problems; and 7. identify, extend, and explain complex patterns and relationships including growing patterns. |
| Mastery |
| <p>Students scoring at the Mastery level in Mathematics generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. use multiple strategies to solve real-life problems by using the four basic operations; 2. select and use mathematical operations, words, and symbols to solve real-life problems; 3. categorize and sort objects based on qualitative or quantitative characteristics; 4. draw logical conclusions and make predictions based on representation of data; 5. select and use appropriate tools and units of measure; 6. compare and group two- and three-dimensional objects according to their attributes; and 7. identify and extend patterns and relations. |

| Basic |
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| <p>Students scoring at the Basic level in Mathematics generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. solve multi-step real-life problems by using the four basic operations; 2. read mathematical words and symbols and understand their meanings; 3. make basic interpretations of data represented in tables, graphs, maps, advertisements, etc.; 4. demonstrate an understanding of basic probability concepts; 5. use models to compare whole numbers, represent fractions, and conceptualize multiplication and division; 6. measure objects using specified tools and units; 7. express working knowledge and vocabulary of two- and three-dimensional geometric objects; and 8. identify and extend patterns. |
| Approaching Basic |
| <p>Students scoring at the Approaching Basic level in Mathematics generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. use basic strategies to solve single-step problems involving addition and subtraction; 2. recognize mathematical words and symbols; 3. match one-parameter data sets to representations as tables and charts; 4. identify measurement tools and units; 5. recognize basic two-dimensional shapes; and 6. identify and extend simple patterns. |
| Unsatisfactory |
| <p>Students scoring at the Unsatisfactory level in Mathematics have not demonstrated the fundamental knowledge and skills needed for the next level of schooling. Students scoring at this level need to develop the ability to:</p> <ol style="list-style-type: none"> 1. use basic strategies to solve single-step problems involving addition and subtraction; 2. recognize mathematical words and symbols; 3. match one-parameter data sets to representations as tables and charts; 4. identify measurement tools and units; 5. recognize basic two-dimensional shapes; and 6. identify and extend simple patterns. |

C. Grade 3 Science Achievement Level Descriptors

| Advanced |
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| <p>Students scoring at the Advanced level in science generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. generate, conduct, and compare simple investigations based on testable questions; make accurate observations using appropriate tools and resources; draw and evaluate conclusions; and communicate ideas, procedures, and data appropriately; 2. explain what is known and what is unknown in scientific investigations and compare the effects of scientific discoveries on society; 3. compare, classify, and relate objects and substances to their appropriate uses based on their properties and physical states; 4. explain how forces are pushes or pulls and analyze the relationships between motion, forces, and the masses of objects; 5. compare common forms of energy and describe the connections between different forms of energy as they are used; 6. describe how similar structures and functions meet the needs of different organisms and classify organisms in multiple ways; 7. explain how organs of the digestive system function and describe how the components of the skeletal function; 8. explain patterns affected by the apparent movement of the Sun and Earth and differentiate the planets of the solar system; |

| Advanced | |
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| 9. | describe climate patterns; explain the water cycle, erosion, and weathering, differentiate types of rocks, soil components, and fossils; explain how fossils are used to determine the age of rocks; and compare the living and nonliving components in ecosystems; |
| 10. | classify manufactured goods; identify sources of resources; and explain how resources can be replenished, depleted, and conserved. |
| Mastery | |
| Students scoring at the Mastery level in science generally exhibit the ability to: | |
| 1. | describe simple investigations based on questions; make observations using appropriate tools and resources; draw conclusions; and communicate ideas, procedures, and data in a variety of ways; |
| 2. | identify what is known and what is unknown in scientific investigations and explain the effects of scientific discoveries on society; |
| 3. | compare, classify, and relate objects and substances to their properties and explain how matter changes physical states; |
| 4. | describe how forces are pushes or pulls and explain the relationships between the motion of objects and forces; |
| 5. | describe the characteristics of sound, light, and electricity and compare common forms of energy and their uses; |
| 6. | compare plant and animal structures and functions and classify organisms based on common characteristics; |
| 7. | describe the function of an organ in the digestive system and describe how the components of the skeletal system function; |
| 8. | describe patterns affected by the apparent movement of the Sun and Earth and identify, in order, the planets of the solar system; |
| 9. | describe climate patterns from recorded weather conditions, the water cycle, erosion, and weathering; |
| 10. | organize rocks by major types; compare soil components; identify fossil characteristics; and explain how fossils illustrate the past; |
| 11. | describe interrelationships of components of ecosystems and describe the effects of humans on organisms and the environment; and |
| 12. | classify manufactured goods by resource type and explain how resources can be replenished or depleted. |
| Basic | |
| Students scoring at the Basic level in science generally exhibit the ability to: | |
| 1. | identify testable questions and conduct simple investigations using directions; |
| 2. | use simple tools and resources to make and describe observations; draw conclusions based on data; and communicate results; |
| 3. | identify testable questions and recognize what is known and what is unknown in scientific investigations; |
| 4. | measure and describe properties of objects and substances and identify changes between the physical states of matter; |
| 5. | identify forces as pushes or pulls and describe motion; |
| 6. | identify the characteristics of sound, light, and electricity and common forms of energy and their uses; |
| 7. | identify plant and animal structures and functions and compare organisms based on common characteristics; |
| 8. | describe the roles of the digestive and skeletal systems; |
| 9. | describe patterns of change in position of the Sun and identify planets of the solar system; |
| 10. | describe precipitation, runoff, erosion, weathering, climate, and weather and give examples of each; |
| 11. | describe characteristics of rocks, identify major soil components; identify fossils; and give examples of how fossils illustrate the past; |

| Basic | |
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| 12. | identify living and nonliving components of an ecosystem and give examples of how humans affect the environment; and |
| 13. | identify examples of manufactured products and explain the differences between renewable and nonrenewable resources. |
| Approaching Basic | |
| Students scoring at the Approaching Basic level in science generally exhibit the ability to: | |
| 1. | recognize some testable questions and conduct steps of an investigation, given explicit directions; |
| 2. | identify tools or resources needed to make and describe observations and describe the results of an experiment; |
| 3. | recognize that some questions are testable and some are not; |
| 4. | describe properties of objects and substances and identify freezing, melting, and boiling; |
| 5. | identify forces as pushes or pulls; |
| 6. | identify characteristics of sound, light, or electricity and common forms of energy or their uses; |
| 7. | identify plant and animal structures and describe common characteristics of organisms; |
| 8. | identify organs in the digestive system and/or components of the skeletal system; |
| 9. | identify simple patterns of change in day and night and shadows and identify examples of planets of the solar system; |
| 10. | recognize and identify examples of precipitation, runoff, and erosion and describe climate and weather or give examples of each; |
| 11. | identify differences in some rocks, recognize and describe soil; and define fossil and recognize one when it is presented; |
| 12. | identify basic components of an ecosystem and recognize how human activities affect the environment; and |
| 13. | identify examples of manufactured products and renewable and nonrenewable resources. |
| Unsatisfactory | |
| Students scoring at the Unsatisfactory level in science have not demonstrated the fundamental knowledge and skills needed for the next level of schooling. Students scoring at this level need to develop the ability to: | |
| 1. | recognize some testable questions and conduct steps of an investigation, given explicit directions; |
| 2. | identify tools or resources needed to make and describe observations and describe the results of an experiment; |
| 3. | recognize that some questions are testable and some are not; |
| 4. | describe properties of objects and substances and identify freezing, melting, and boiling; |
| 5. | identify forces as pushes and pulls; |
| 6. | identify characteristics of sound, light, or electricity and common forms of energy or their uses; |
| 7. | identify plant and animal structures and describe common characteristics of organisms; |
| 8. | identify organs in the digestive system and/or components of the skeletal system; |
| 9. | identify simple patterns of change in day and night and shadows and identify examples of planets of the solar system; |
| 10. | recognize and identify examples of precipitation, runoff, and erosion and describe climate and weather or give examples of each; |
| 11. | identify differences in some rocks; recognize and describe soil; and define fossil and recognize one when it is presented; |
| 12. | identify basic components of an ecosystem and recognize how human activities affect the environment; and |
| 13. | identify examples of manufactured products and renewable and nonrenewable resources. |

D. Grade 3 Social Studies Achievement Level Descriptors

| Advanced |
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| <p>Students scoring at the Advanced level in social studies generally exhibit the ability to:</p> <ol style="list-style-type: none"> analyze geographical data, physical characteristics, patterns of settlement, and the changing environment of Louisiana; analyze spatial and cultural relationships between humans and the environment; analyze charts, graphs, diagrams, and maps; analyze governmental responsibilities at various levels, including state government; analyze the differences between rules and laws, citizen involvement in government, and the qualities of a good citizen; analyze fundamental economic concepts; compare various components of the economy, including the local and regional trade of goods and services produced in Louisiana; differentiate among types of historical sources; describe and analyze information presented in various graphic forms; describe family life and analyze changes within society; and describe and analyze historical figures, symbols, and events in Louisiana history. |
| Mastery |
| <p>Students scoring at the Mastery level in social studies generally exhibit the ability to:</p> <ol style="list-style-type: none"> organize and interpret geographical data about Louisiana; explain the physical characteristics, patterns of settlement, and changing environment of Louisiana; compare spatial and cultural relationships between humans and the environment; evaluate charts, graphs, diagrams, and maps; describe governmental responsibilities at various levels, including state government; describe the differences between rules and laws, citizen involvement in government, and the qualities of a good citizen; describe fundamental economic concepts; explain various components of the economy, including the local and regional trade of goods and services produced in Louisiana; categorize various types of historical sources and interpret information presented in various graphic forms; explain family life and how it changes; and describe historical figures, symbols, and events in Louisiana history. |
| Basic |
| <p>Students scoring at the Basic level in social studies generally exhibit the ability to:</p> <ol style="list-style-type: none"> use geographical data to explain events related to Louisiana; describe the physical characteristics, patterns of settlement, and changing environment of Louisiana; describe spatial and cultural relationships between humans and the environment; describe how charts, graphs, diagrams, and maps are used; identify governmental responsibilities at various levels, including state government; identify differences between rules and laws, citizen involvement in government, and the qualities of a good citizen; identify some fundamental economic concepts and terms and recognize and describe various components of the economy, including the local and regional trade of goods and services produced in Louisiana; identify types of historical sources and recognize information presented in various graphic forms; describe family life and how it changes; and identify the importance of historical figures, symbols, and events in Louisiana history. |

| Approaching Basic |
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| <p>Students scoring at the Approaching Basic level in social studies generally exhibit the ability to:</p> <ol style="list-style-type: none"> identify geographical data related to events in Louisiana; recognize the physical characteristics, patterns of settlement, and changing environment of Louisiana; recognize spatial relationships between humans and the environment; identify features of charts, graphs, diagrams, and maps; recognize governmental responsibilities at various levels, including state government; identify differences between rules and laws, citizen involvement in government, and the qualities of a good citizen; identify some fundamental economic concepts and terms and recognize components of the economy, including the local and regional trade of goods and services produced in Louisiana; recognize that there are several types of historical sources and that historical information may be presented in various graphic forms; recognize family life and how it changes; and identify historical figures, symbols, and events in Louisiana history. |
| Unsatisfactory |
| <p>Students scoring at the Unsatisfactory level in social studies have not demonstrated the fundamental knowledge and skills needed for the next level of schooling. Students scoring at this level need to develop the ability to:</p> <ol style="list-style-type: none"> identify geographical data related to events in Louisiana; identify features of charts, graphs, diagrams, and maps; recognize the physical characteristics, patterns of settlement, and changing environment of Louisiana; recognize spatial relationships between humans and the environment; recognize governmental responsibilities at various levels, including state government; identify differences between rules and laws, citizen involvement in government, and the qualities of a good citizen; identify some fundamental economic concepts and terms and recognize various components of the economy, including the local and regional trade of goods and services produced in Louisiana; recognize that there are several types of historical sources and that historical information may be presented in various graphic forms; recognize family life and how it changes; and identify historical figures, symbols, and events in Louisiana history. |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7 and R.S. 17:24.4(F)(2).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, Office of Student and School Performance, LR 33:991 (June 2007).

§1713. Grade 5 Achievement Level Descriptors

A. Grade 5 English Language Arts Achievement Level Descriptors

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| <p>Students scoring at the Advanced level in English Language Arts generally exhibit the ability to:</p> <ol style="list-style-type: none"> identify meanings of a wide variety of words using a range of strategies; interpret meanings of various story elements and literary devices and analyze an author's purpose and viewpoint; extend ideas in what they read by making inferences, drawing conclusions, determining cause and effect, and making connections to their own life experiences; research a topic by selecting and integrating information from multiple print and electronic sources; identify accurate documentation of sources following a model; |
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| Advanced | |
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| 6. | use analytical, critical, and/or creative thinking in response to a writing task; |
| 7. | construct a response with a focused central idea, logical organization, and effective transitional words and phrases; |
| 8. | use vocabulary, language, and complex sentence structure designed to manipulate the intended audience, enhance meaning, and reflect personality; and |
| 9. | maintain consistent command of sentence formation, usage, mechanics, and spelling. |
| Mastery | |
| Students scoring at the Mastery level in English Language Arts generally exhibit the ability to: | |
| 1. | identify word meanings using a variety of strategies; |
| 2. | interpret the meaning of various story elements and literary devices; |
| 3. | identify an author's purpose and viewpoint; |
| 4. | make connections between information in texts and their personal experiences; |
| 5. | use a variety of reasoning skills including identifying stated and implied main ideas, making inferences, and drawing conclusions; |
| 6. | research a topic by locating and selecting information from multiple print and electronic sources; |
| 7. | identify all parts of bibliographic entries following a model; |
| 8. | use analytical, critical, and/or creative thinking in response to a writing task; |
| 9. | construct a response with a clear central idea, a logical organizational pattern, a variety of supporting details, and transitions that unify; |
| 10. | demonstrate an awareness of audience through the use of vocabulary, language, and a variety of sentence types that clarify meaning; and |
| 11. | demonstrate reasonable command of sentence formation, usage, mechanics, and spelling. |
| Basic | |
| Students scoring at the Basic level in English Language Arts generally exhibit the ability to: | |
| 1. | identify meanings of grade-level words using various strategies; |
| 2. | demonstrate an overall understanding of what they read by identifying literal and inferential information and by making connections to their own experiences; |
| 3. | identify story elements, literary devices, and author's intent or purpose; |
| 4. | extend ideas in the text by making inferences and drawing conclusions; |
| 5. | use reasoning skills, including identifying stated and implied main ideas of a selection; |
| 6. | research a topic by locating information in commonly used print and electronic sources; |
| 7. | give credit for borrowed information following a model; |
| 8. | use critical and/or creative thinking in response to a writing task; |
| 9. | construct a response with a central idea, an observable organizational pattern, some supporting details, and simple transitions; |
| 10. | demonstrate audience awareness by using language and some sentence variety appropriate to the task and intended audience; and |
| 11. | demonstrate partial command of sentence formation, usage, mechanics, and spelling. |

| Approaching Basic | |
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| Students scoring at the Approaching Basic level in English Language Arts generally exhibit the ability to: | |
| 1. | identify meanings of commonly used words; |
| 2. | identify literary elements such as characters and themes, some literary devices, and the author's purpose; |
| 3. | demonstrate partial understanding of what they read by identifying stated main ideas and simple cause/effect relationships, making simple inferences, drawing simple conclusions, and making limited connections to their own experiences; |
| 4. | research a topic by locating some information in commonly used print and electronic sources; |
| 5. | identify some parts of a bibliographic entry following a model; |
| 6. | demonstrate a partial response to a writing task; |
| 7. | construct a response with a weak central idea, weak organization, and few supporting details; |
| 8. | demonstrate limited audience awareness through use of simple and/or inappropriate vocabulary and sentence structure; and |
| 9. | demonstrate inconsistent or little command of sentence formation, usage, mechanics, and spelling. |
| Unsatisfactory | |
| Students scoring at the Unsatisfactory level in English Language Arts have not demonstrated the fundamental knowledge and skills needed for the next level of schooling. Students scoring at this level need to develop the ability to: | |
| 1. | demonstrate an understanding of what they read; |
| 2. | make interpretations and connections between information in texts and their own experiences; |
| 3. | locate information in commonly used sources; |
| 4. | develop an appropriate response to a writing task; |
| 5. | construct a response with a focused central idea, observable organization, and sufficient supporting details; |
| 6. | show audience awareness through use of appropriate vocabulary, varied sentence structure, and personal style; and |
| 7. | demonstrate acceptable command of sentence formation, usage, mechanics, and spelling. |

B. Grade 5 Mathematics Achievement Level Descriptors

| Advanced | |
|---|---|
| Students scoring at the Advanced level in Mathematics generally exhibit the ability to: | |
| 1. | analyze and evaluate the most efficient strategies and appropriate procedures to solve complex multi-step problems; |
| 2. | translate between real-world problem settings and mathematical expressions and sentences; |
| 3. | draw conclusions from data represented in various forms; |
| 4. | compare and contrast concrete models and numerical values for probabilities; |
| 5. | use a coordinate grid to illustrate transformations and symmetries; |
| 6. | model and solve real-life problems involving connections among the concepts and skills in the six content strands; |
| 7. | communicate mathematical thinking using appropriate terminology and notation; and |
| 8. | create, extend, and describe a variety of patterns. |

C. Grade 5 Science Achievement Level Descriptors

| Mastery |
|---|
| <p>Students scoring at the Mastery level in Mathematics generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. use multiple strategies to solve real-life problems using whole numbers; 2. connect conceptual models and pictures with mathematical language and operations; 3. use appropriate strategies for calculating, comparing, and estimating measurements; 4. use models and drawings to describe and interpret basic geometric transformations and symmetries; 5. identify and plot points on a coordinate grid; 6. organize and display data using a variety of tables and graphs; 7. represent probabilities as common fractions and recognize that probabilities fall between 0 and 1; 8. solve multi-step problems and determine the reasonableness of answers; and 9. extend and describe a variety of patterns. |
| Basic |
| <p>Students scoring at the Basic level in Mathematics generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. solve real-life problems using whole numbers; 2. use estimation strategies and mental math to determine reasonable values and solutions; 3. identify positive solutions to inequalities on a number line; 4. choose tools necessary to measure accurately and estimate measurements; 5. identify basic geometric transformations and symmetries; 6. identify points on a coordinate grid; 7. organize and display data using tables and graphs and represent probabilities as common fractions; 8. determine operations necessary to solve multi-step problems; and 9. complete missing elements in a variety of patterns. |
| Approaching Basic |
| <p>Students scoring at the Approaching Basic level in Mathematics generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. solve whole number problems; 2. demonstrate an understanding of fractions and positive numbers on a number line; 3. choose tools necessary to measure accurately; 4. demonstrate an understanding that a connection between models and mathematical language exists; 5. read tables and graphs; 6. discuss the likelihood of an event occurring in a real-life situation; 7. recognize and classify common two-dimensional figures by attributes; and 8. identify missing elements in a variety of patterns. |
| Unsatisfactory |
| <p>Students scoring at the Unsatisfactory level in Mathematics have not demonstrated the fundamental knowledge and skills needed for the next level of schooling. Students scoring at this level need to develop the ability to:</p> <ol style="list-style-type: none"> 1. solve whole number problems; 2. demonstrate an understanding of fractions and positive numbers on a number line; 3. choose tools necessary to measure accurately; 4. demonstrate an understanding that a connection between models and mathematical language exists; 5. read tables and graphs; 6. discuss the likelihood of an event occurring in a real-life situation; 7. recognize and classify common two-dimensional figures by attributes; and 8. identify missing elements in a variety of patterns. |

| Advanced |
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| <p>Students scoring at the Advanced level in science generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. compare and contrast investigations by generating testable questions, identifying variables, and describing experimental designs; 2. select appropriate tools and resources for data collection; analyze data; identify patterns; make inferences; and predict trends; 3. communicate experimental procedures, data, and analyses in a variety of appropriate methods; 4. explain how science is advanced through mathematics, technology, communication, and the work of others; 5. compare/describe properties and phases of matter, the formation of substances, the structure of atoms, and types and sources of energy; 6. compare motion and predict future positions of objects and explain how changes in a light source and an object alter shadows; 7. describe the structural organization of organisms; classify common organisms; and relate cell components to their functions; 8. compare adaptations, metamorphosis, photosynthesis, and respiration in organisms and describe different types of disease transmission; 9. explain why it takes different amounts of time for natural events to occur and compare objects in the solar system; 10. compare the atmosphere, hydrosphere, climate, and weather and explain the water cycle; 11. distinguish between common soils, rocks, and minerals and the processes that prevent or cause erosion; 12. describe different naturally occurring cycles and how changes affect organisms and compare communities within ecosystems; and 13. identify and describe the impact of human activities and common pollutants on local and global ecosystems. |
| Mastery |
| <p>Students scoring at the Mastery level in science generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. explain investigations by generating testable questions and identifying variables; 2. select tools and resources for data collection; analyze data; identify patterns; and make inferences; 3. communicate experimental procedures, data, and analyses; 4. describe how science is advanced through mathematics, technology, communication, and the work of others; 5. identify/describe properties and phases of matter, the formation of substances, the structure of atoms, and types and sources of energy; 6. compare, calculate, and graph motion and describe how changes in a light source and an object alter shadows; 7. describe the structural organization of organisms, classify common organisms, and describe cell components and their functions; 8. describe adaptations, metamorphosis, photosynthesis, and respiration in organisms and identify different types of disease transmission; 9. estimate the range of time in which natural events occur and describe the characteristics and movements of objects in the solar system; 10. describe the atmosphere, hydrosphere, climate, weather, and the water cycle; 11. identify rocks, minerals, and components of common soils and the processes that affect erosion; 12. describe different naturally occurring cycles and where they are found in ecosystems and compare communities within ecosystems; and 13. identify and describe the impact of human activities on local ecosystems and identify common pollutants found in water, air, and soil. |

Basic

Students scoring at the Basic level in science generally exhibit the ability to:

1. describe an investigation and identify its variables;
2. select tools and resources correctly to collect data; analyze data; and recognize patterns;
3. communicate experimental data and analyses;
4. know and describe how science is continually tested and advanced and that it begins with a review of the work of others;
5. identify/describe properties and phases of matter, the formation of substances, the parts of atoms, and types and sources of energy;
6. calculate and graph motion and identify how changes in a light source and an object alter shadows;
7. identify organizational levels of living things, classify common organisms, and describe cell components and their functions;
8. identify stages of metamorphosis of amphibians, photosynthesis, respiration in plants, and that diseases are transmitted in different ways;
9. identify short- and long-term natural events and identify objects in the solar systems based on their characteristics and movements;
10. identify components of the atmosphere and hydrosphere, examples of climate and weather patterns, and processes of the water cycle;
11. identify common rocks and minerals and components of various soils and recognize processes that affect erosion;
12. identify or describe different naturally occurring cycles, the needs of an organism, and organisms in different ecosystems; and
13. identify and describe the impact of human activities on parts of an ecosystem and identify examples of water and air pollution.

Approaching Basic

Students scoring at the Approaching Basic level in science generally exhibit the ability to:

1. describe an investigation;
2. recognize tools and resources to collect data and know that patterns in data are affected by natural events;
3. communicate experimental data and recognize statements that are not supported by evidence;
4. describe that science is continually advancing and know that investigations generally include the work of others;
5. identify properties and phases of matter, the formation of new substances, protons and electrons, and types of energy;
6. calculate or graph motion and know that changes in a light source and an object alter the size and shape of shadows;
7. recognize the structural organization of living things; use a simple dichotomous key; and describe cell components;
8. recognize that metamorphosis occurs in amphibians; identify photosynthesis or respiration; and recognize that diseases are transmitted;
9. identify objects in the solar system based on their characteristics and movements;
10. identify the atmosphere and hydrosphere, examples of climate and weather patterns, and processes of the water cycle;
11. identify common rocks and minerals; recognize that soil is comprised of different things; and
12. recognize a process that affects erosion;
13. identify different naturally occurring cycles; recognize the characteristics of an organism; and compare organisms in ecosystems; and
14. identify human activities that impact the environment and list examples of various kinds of water and pollution.

Unsatisfactory

Students scoring at the Unsatisfactory level in science have not demonstrated the fundamental knowledge and skills needed for the next level of schooling. Students scoring at this level need to develop the ability to:

1. describe an investigation;
2. recognize tools and resources to collect data and know that patterns in data are affected by natural events;
3. communicate experimental data and recognize statements that are not supported by evidence;
4. describe that science is continually advancing and know that investigations generally include the work of others;
5. identify properties and phases of matter, the formation of new substances, protons and electrons, and types of energy;
6. calculate or graph motion and know that changes in a light source and an object alter the size and shape of shadows;
7. recognize the structural organization of living things; use a simple dichotomous key; and describe cell components;
8. recognize that metamorphosis occurs in amphibians; identify photosynthesis or respiration; and recognize that diseases are transmitted;
9. identify objects in the solar system based on their characteristics and movements;
10. identify the atmosphere and hydrosphere, examples of climate and weather patterns, and processes of the water cycle;
11. identify common rocks and minerals; recognize that soil is comprised of different things; and recognize a process that affects erosion;
12. identify different naturally occurring cycles; recognize the characteristics of an organism; and compare organisms in ecosystems; and
13. identify human activities that impact the environment and list examples of various kinds of water and pollution.

D. Grade 5 Social Studies Achievement Level Descriptors**Advanced**

Students scoring at the Advanced level in social studies generally exhibit the ability to:

1. analyze, describe, interpret, and use geographical data and tools to explain early American history;
2. analyze the physical structure and natural resources of the United States in terms of regions;
3. locate major landforms and geographic features on a map of the United States;
4. describe and analyze the governmental, economic, and social forces that contribute to migration;
5. describe and compare the impact of the natural environment on human activity;
6. analyze economic activities of American Indian cultures;
7. analyze the economic interdependence of the thirteen original colonies and how economic concepts motivated early explorations;
8. interpret information from varied historical sources and analyze issues and viewpoints presented in graphic or narrative form;
9. analyze the impact of European and African settlements in the Americas through the colonial era and explain how cultures change;
10. analyze the political, social, and economic organization and structure of the thirteen original colonies that became the United States; and
11. describe and differentiate among ancient American empires.

Mastery

Students scoring at the Mastery level in social studies generally exhibit the ability to:

1. interpret and use information from geographical data and tools to explain early American history;
2. explain the impact of the physical structure and natural resources of the United States in terms of regions;
3. locate major landforms and geographic features on a map of the United States;
4. explain the governmental, economic, and social forces that contribute to migration;
5. explain the impact of the natural environment on human activity;
6. describe economic activities of American Indian cultures;
7. describe the economic interdependence of the thirteen original colonies and how economic concepts motivated early explorations;
8. describe varied historical sources and issues and viewpoints presented in graphic or narrative form;
9. describe the impact of Europeans and African settlements in the Americas through the colonial era and explain how cultures change;
10. describe the political, social, and economic organization and structure of the thirteen original colonies that became the United States; and
11. describe ancient American empires.

Basic

Students scoring at the Basic level in social studies generally exhibit the ability to:

1. use geographical data and tools to explain early American history;
2. describe the physical structure and natural resources of the United States in terms of regions;
3. locate major landforms and geographic features on a map of the United States;
4. describe the governmental, economic, and social forces that contribute to migration;
5. describe the impact of the natural environment on human activity;
6. identify examples of economic activities of American Indian cultures;
7. identify the economic interdependence of the thirteen original colonies and how economic concepts motivated early explorations;
8. identify varied historical sources and issues and viewpoints presented in graphic or narrative form;
9. identify European and African settlements in the Americas through the colonial era and explain how cultures change;
10. identify the political, social, and economic organization and structure of the thirteen original colonies that became the United States; and
11. identify various aspects of ancient American empires.

Approaching Basic

Students scoring at the Approaching Basic level in social studies generally exhibit the ability to:

1. identify geographical data and tools relating to early American history;
2. recognize the physical structure and natural resources of the United States in terms of regions;
3. locate major landforms and geographic features on a map of the United States;
4. identify governmental economic and social forces that contribute to migration;
5. recognize the impact of the natural environment on human activity;
6. recognize the economic activities of American Indian cultures;
7. recognize the economic interdependence of the thirteen original colonies and the economic motivations for early explorations;
8. recognize types of historical sources and issues and viewpoints presented in graphic or narrative form;
9. recognize some European and African settlements in the Americas through the colonial era and explain how cultures change;
10. recognize examples of the political, social, and economic organization and structure of the thirteen original colonies; and
11. recognize ancient American empires.

Unsatisfactory

Students scoring at the Unsatisfactory level in social studies have not demonstrated the fundamental knowledge and skills needed for the next level of schooling. Students scoring at this level need to develop the ability to:

1. identify geographical data and tools relating to early American history;
2. recognize the physical structure and natural resources of the United States in terms of regions;
3. locate major landforms and geographic features on a map of the United States;
4. identify governmental, economic, and social forces that contribute to migration;
5. recognize the impact of the natural environment on human activity;
6. recognize the economic activities of American Indian cultures;
7. recognize the economic interdependence of the thirteen original colonies and the economic motivations for the early explorations;
8. recognize types of historical sources and issues and viewpoints presented in graphic or narrative form;
9. recognize some European and African settlements in the Americas through the colonial era and explain how cultures change;
10. recognize examples of the political, social, and economic organization and structure of the thirteen original colonies; and
11. recognize ancient American empires.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7 and R.S. 17:24.4(F)(2).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:994 (June 2007).

§1715. Grade 6 Achievement Level Descriptors

A. Grade 6 English Language Arts Achievement Level Descriptors

| Advanced |
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| <p>Students scoring at the Advanced level in English Language Arts generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. identify meanings of a wide variety of words using a range of strategies; 2. demonstrate understanding of what they read using a variety of complex strategies, including inductive reasoning and identifying implied main ideas and supporting details; 3. analyze complex story elements and literary devices and interpret an author's purpose for writing; 4. research a topic by locating and integrating appropriate information from print and electronic sources; 5. identify all parts of a bibliographic entry following a model; 6. use analytical, critical, and/or creative thinking in response to a writing task; 7. construct a response with a sharply focused central idea, effective and logical organization relevant details and information, and a variety of transitions; 8. use vivid words, language, and complex sentence structure to influence the intended audience, enhance meaning, and reflect individual personality; and 9. maintain consistent command of sentence formation, usage, mechanics, and spelling. |
| Mastery |
| <p>Students scoring at the Mastery level in English Language Arts generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. identify word meanings using a variety of strategies; 2. demonstrate understanding of what they read using a variety of strategies, including making inferences, drawing conclusions, determining main ideas, comparing and contrasting, and predicting; 3. interpret story elements and literary devices; 4. identify an author's implied purpose for writing; 5. research a topic by locating and selecting appropriate information from print and electronic sources; 6. identify all parts of a bibliographic entry following a model; 7. use analytical, critical, and/or creative thinking in response to a writing task; 8. construct a response with a clearly stated central idea, logical organization, and a variety of details and transition; 9. select vocabulary, language, and sentence variety to engage the intended audience and reflect individual personality; and 10. demonstrate reasonable command of sentence formation, usage, mechanics, and spelling. |
| Basic |
| <p>Students scoring at the Basic level in English Language Arts generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. identify meanings of grade-level words using a variety of strategies, including context clues; 2. identify story elements, literary devices, including imagery, and an author's stated purpose for writing; 3. use knowledge of their distinctive characteristics to identify elements of various genres, including fiction, nonfiction, or poetry; 4. demonstrate understanding of information in what they read using basic strategies and simple reasoning skills to analyze grade-appropriate texts, identify stated main ideas and supporting details, and predict the outcome of a story or situation; 5. research a topic by locating information in a variety of commonly used electronic and print reference sources such as newspapers, magazines, brochures, maps, and legends; 6. identify parts of a bibliographic entry for commonly used sources following a model; |

| Basic |
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| <ol style="list-style-type: none"> 7. use some critical and/or creative thinking in response to a writing task; 8. construct a response with a central idea, observable organization, some supporting details, and some transitions appropriate to the task; 9. demonstrate some audience awareness by using simple sentences and appropriate wording; and 10. demonstrate partial command of sentence formation, usage, mechanics, and spelling. |
| Approaching Basic |
| <p>Students scoring at the Approaching Basic level in English Language Arts generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. identify meanings of commonly used words; 2. demonstrate partial understanding of what they read by identifying literal information and stated main ideas, making limited connections to their own experiences, and drawing conclusions; 3. identify some story elements, literary devices, and the author's stated purpose; 4. research a topic by locating information in commonly used print and electronic resources; 5. identify some parts of a bibliographic entry for commonly used sources following a model; 6. demonstrate a partial response to a writing task; 7. construct a response with an unclear central idea, incomplete organizational pattern, limited supporting details, and simple or no transitions; 8. show minimal audience awareness by using simple or inappropriate vocabulary, language, and sentence structure and little personal style; and 9. demonstrate inconsistent command of sentence formation, usage, mechanics, and spelling. |
| Unsatisfactory |
| <p>Students scoring at the Unsatisfactory level in English Language Arts have not demonstrated the fundamental knowledge and skills needed for the next level of schooling. Students scoring at this level need to develop the ability to:</p> <ol style="list-style-type: none"> 1. demonstrate an understanding of what they read; 2. interpret texts and make connections between information in texts and their own experiences; 3. locate information in commonly used resources; 4. develop an appropriate response to a writing task; 5. construct a response with a focused central idea, observable organization, and sufficient supporting details; 6. show audience awareness through use of appropriate vocabulary, varied sentence structure, and personal style; and 7. demonstrate acceptable command of sentence formation, usage, mechanics, and spelling. |

B. Grade 6 Mathematics Achievement Level Descriptors

| Advanced |
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| <p>Students scoring at the Advanced level in Mathematics generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. use multiple strategies to solve real-life problems involving positive numbers; 2. use basic number and number theory concepts to determine and describe the relationship between numbers in problem settings; 3. explain procedures involved in solving multi-step problems; 4. use computational strategies to determine and compare measurements of two-dimensional shapes and measures of rate; 5. use appropriate statistical measures and patterns in data to describe trends and make predictions; 6. describe polyhedra using their basic properties; 7. apply concepts, properties, and relationships of basic two-dimensional figures in real-life situations; and 8. use, illustrate, and apply basic concepts of probability. |

| Mastery |
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| <p>Students scoring at the Mastery level in Mathematics generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. use models to solve problems involving ratios, proportions, and percents; 2. translate verbal phrases into algebraic expressions and vice versa; 3. demonstrate an intuitive sense of relative sizes of common units of measurement; 4. make predictions regarding tessellations with geometric shapes; 5. apply concepts and properties of basic two-dimensional figures in real-life situations; 6. extend and construct complex arithmetic and geometric patterns presented in multiple formats (tables, charts, sequences, etc.); and 7. use and illustrate basic concepts of probability. |
| Basic |
| <p>Students scoring at the Basic level in Mathematics generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. estimate and solve real-life problems involving addition and subtraction of fractions and decimals; 2. solve simple proportions using models; 3. find perimeter and area of simple geometric figures graphed on a coordinate grid; 4. name and describe basic two- and three-dimensional geometric shapes; 5. use substitution to evaluate simple algebraic expressions; 6. extend and describe simple arithmetic and geometric patterns; 7. use tools to determine linear measurements in relation to geometric shapes; and 8. recognize basic concepts of probability. |
| Approaching Basic |
| <p>Students scoring at the Approaching Basic level in Mathematics generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. recognize and identify ratios and percents from a model; 2. complete a simple input/output table; 3. recognize and name basic geometric shapes; 4. recognize common units of length and area; and 5. interpret data from a graph. |
| Unsatisfactory |
| <p>Students scoring at the Unsatisfactory level in Mathematics have not demonstrated the fundamental knowledge and skills needed for the next level of schooling. Students scoring at this level need to develop the ability to:</p> <ol style="list-style-type: none"> 1. recognize and identify ratios and percents from a model; 2. complete a simple input/output table; 3. recognize and name basic geometric shapes; 4. recognize common units of length and area; and 5. interpret data from a graph. |

C. Grade 6 Science Achievement Level Descriptors

| Advanced |
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| <p>Students scoring at the Advanced level in science generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. compare and contrast investigations by generating testable questions, identifying variables, and evaluating experimental designs; 2. select a variety of appropriate tools and resources for data collection; analyze data; make inferences; and predict trends; 3. communicate experimental procedures, data, and analyses in a variety of appropriate methods; 4. describe and explain how science is advanced through mathematics, technology, communication, and the work of others; |

| Advanced |
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| <ol style="list-style-type: none"> 5. identify faulty reasoning, information, communications, or statements that misinterpret or are not supported by evidence; 6. determine mass, volume, and density and recognize that density does not change with the amount of a substance; 7. identify the average atomic masses of given elements, using the periodic table; 8. compare physical and chemical properties and changes and relate the structure and movement of matter to temperature; 9. identify, describe, and compare substances in common materials and chemical reaction and predict the mass of their products; 10. analyze graphs of motion; infer how motion is related to applied forces; and predict future positions and speed of objects; 11. describe, compare, and give examples of different forms of energy, energy changes and interactions, and production and use risks; 12. categorize energy types and evaluate the risks and benefits of their use and production on the environment and economy; and 13. explain how people can conserve and sustain resources and evaluate both the short- and long-term effects of these actions. |
| Mastery |
| <p>Students scoring at the Mastery level in science generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. explain investigations by generating testable questions, identifying variables, and comparing experimental designs; 2. select appropriate tools and resources for data collection and analyze data to make inferences and predict trends; 3. communicate experimental procedures, data, and analyses through appropriate methods; 4. describe how science is improved through mathematics, technology, communication, testing, and the work of others; 5. identify faulty reasoning and statements that misinterpret or are not supported by evidence; 6. determine the mass, volume, and density of different amounts of a variety of substances; 7. identify the average atomic masses of given elements, using the periodic table; 8. compare physical and chemical changes and differentiate between physical and chemical properties of a substance; 9. identify and describe substances in materials and chemical reactions and relate phase changes of water to changes in water temperature; 10. compare motion and predict future positions and speed of objects and describe forces acting on objects and predict their effects; 11. describe and give examples of different energy forms, energy changes and interactions, and energy production and use risks; 12. identify and categorize energy types and determine their uses and effects on the environment and economy; and 13. identify, describe, and categorize ways people can conserve and sustain resources. |
| Basic |
| <p>Students scoring at the Basic level in science generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. describe investigations by generating testable questions and identifying variables; 2. select appropriate tools and resources to collect and analyze data to evaluate explanations and models and to make inferences; 3. communicate experimental procedures, data, and analyses; |

D. Grade 6 Social Studies Achievement Level Descriptors

| Basic | |
|---|---|
| 4. | recognize that science is improved by mathematics, technology, and the work of others and is continually tested, revised, and advanced; |
| 5. | identify faulty reasoning and statements that misinterpret or are not supported by evidence; |
| 6. | determine mass and volume and compare the masses of the same volumes of different substances; |
| 7. | identify the average atomic masses of given elements, using the periodic table; |
| 8. | identify physical and chemical properties and changes and describe the temperatures at which changes of the phase of water occurs; |
| 9. | identify substances in common materials and chemical reactions; |
| 10. | compare and construct graphs of motion and identify and describe forces acting on objects; |
| 11. | describe different forms of energy, transformations, and interactions with matter and identify risks associated with energy use; and |
| 12. | identify and categorize energy types and identify and describe ways people can conserve and sustain resources. |
| Approaching Basic | |
| Students scoring at the Approaching Basic level in science generally exhibit the ability to: | |
| 1. | describe an investigation and identify its variables; |
| 2. | select tools and resources to collect and use data to evaluate explanations and models; |
| 3. | communicate experimental data and explanations; |
| 4. | describe that science is continually tested, advanced, and improved by the work of others; |
| 5. | recognize statements that are not supported by evidence; |
| 6. | determine the masses and volumes of different substances and identify the atomic masses of given elements, using the periodic table; |
| 7. | identify physical and chemical properties or changes and identify substances in common materials; |
| 8. | recognize that phase changes of water occur at different temperatures; |
| 9. | identify and compare graphs of motion and identify forces acting on objects; |
| 10. | give examples of different energy forms, transformations, and interactions with matter and risks associated with energy use; and |
| 11. | identify categories of energy types and examples of how people can reuse, recycle, and reduce resources. |
| Unsatisfactory | |
| Students scoring at the Unsatisfactory level in science have not demonstrated the fundamental knowledge and skills needed for the next level of schooling. Students scoring at this level need to develop the ability to: | |
| 1. | describe an investigation and identify its variables; |
| 2. | select tools and resources to collect and use data to evaluate explanations and models; |
| 3. | communicate experimental data and explanations; |
| 4. | describe that science is continually tested, advanced, and improved by the work of others; |
| 5. | recognize statements that are not supported by evidence; |
| 6. | determine the masses and volumes of different substances and identify the atomic masses of given elements, using the periodic table; |
| 7. | identify physical and chemical properties or changes and identify substances in common materials; |
| 8. | recognize that phase changes of water occur at different temperatures; |
| 9. | identify and compare graphs of motion and identify forces acting on objects; |
| 10. | give examples of different energy forms, transformations, and interactions with matter and risks associated with energy use; and |
| 11. | identify categories of energy types and examples of how people can reuse, recycle, and reduce resources. |

| Advanced | |
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| Students scoring at the Advanced level in social studies generally exhibit the ability to: | |
| 1. | apply geographical data and tools, including latitude and longitude, to real-world scenarios; |
| 2. | analyze how the world's physical environment affected human settlement and how political boundaries were established and maintained; |
| 3. | analyze the cultural impact of migration on world history; |
| 4. | analyze the impact of the natural environment on humans in ancient societies; |
| 5. | explain how aspects of Greek and Roman governments have influenced the U.S. government; |
| 6. | analyze historical examples of fundamental economic concepts and how they motivated human interaction; |
| 7. | analyze information on timelines and synthesize information taken from multiple historical source documents; |
| 8. | analyze causes and effects, characteristics, and motivations of historical events as presented in narrative form; |
| 9. | analyze the origins, spread, and effects of major world religions and their empires on European, Asian, and African civilizations; and |
| 10. | analyze human continuity and change from the time of river valley civilizations through the early Middle Ages. |
| Mastery | |
| Students scoring at the Mastery level in social studies generally exhibit the ability to: | |
| 1. | manipulate geographical data and tools, including latitude and longitude, to explain real-world scenarios; |
| 2. | explain how the world's physical environment affected human settlement and how political boundaries were established and maintained; |
| 3. | explain the cultural impact of migration on world history; |
| 4. | explain the impact of the natural environment on humans in ancient societies; |
| 5. | describe aspects of Greek and Roman governments that influenced the U.S. government; |
| 6. | explain historical examples of fundamental economic concepts and how they motivated human interaction; |
| 7. | evaluate and manipulate timelines and interpret the differences among multiple historical source documents; |
| 8. | interpret causes and effects, characteristics, and motivations of historical events as presented in narrative form; |
| 9. | interpret the origins, spread, and effects of major world religions and their empires on European, Asian, and African civilizations; and |
| 10. | interpret human continuity and change from the time of river valley civilizations through the early Middle Ages. |
| Basic | |
| Students scoring at the Basic level in social studies generally exhibit the ability to: | |
| 1. | use geographical data and tools, including latitude and longitude, to describe real-world scenarios; |
| 2. | describe how the world's physical environment affected human settlement and how political boundaries were established and maintained; |
| 3. | describe the cultural impact of migration on world history; |
| 4. | describe the impact of the natural environment on humans in ancient societies; |
| 5. | identify aspects of Greek and Roman governments that influenced the U.S. government; |
| 6. | describe historical examples of fundamental economic concepts and how they motivated human interaction; |
| 7. | relate information on timelines to historical events and describe information available from multiple historical source documents; |
| 8. | describe causes and effects, characteristics, and motivations of historical events as presented in narrative form; |
| 9. | describe the origins, spread, and effects of major world religions and their empires on Europeans, Asian, and African civilizations; and |
| 10. | describe human continuity and change from the time of river valley civilizations through the early Middle Ages. |

| Approaching Basic |
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| <p>Students scoring at the Approaching Basic level in social studies generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. identify geographical data and tools, including latitude and longitude, used to identify real-world scenarios; 2. recognize how the world's physical environment affected human settlement and how political boundaries were established and maintained; 3. identify the cultural impact of migration on world history; 4. recognize the impact of the natural environment on humans in ancient societies; 5. recognize some aspects of Greek and Roman governments that influenced the U.S. government; 6. recognize historic examples of fundamental economic concepts and how they motivated human interaction; 7. identify historical timelines and multiple historical source documents; 8. identify causes and effects, characteristics, and motivations of historical events as presented in narrative form; 9. identify the origins, spread, and effects of major world religions and their empires on European, Asian, and African civilizations; and 10. identify human continuity and change from the time of river valley civilizations through the early Middle Ages. |
| Unsatisfactory |
| <p>Students scoring at the Unsatisfactory level in social studies have not demonstrated the fundamental knowledge and skills needed for the next level of schooling. Students scoring at this level need to develop the ability to:</p> <ol style="list-style-type: none"> 1. identify geographical data and tools, including latitude and longitude, used to identify real-world scenarios; 2. recognize how the world's physical environment affected human settlement and how political boundaries were established and maintained; 3. identify the cultural impact of migration on world history; 4. recognize the impact of the natural environment on humans in ancient societies; 5. recognize some aspects of Greek and Roman governments that influenced the U.S. government; 6. recognize historic examples of fundamental economic concepts and how they motivated human interaction; 7. identify historical timelines and multiple historical source documents; 8. identify causes and effects, characteristics, and motivations of historical events in narrative form; 9. identify the origins, spread, and effects of major world religions and their empires on European, Asian, and African civilizations; and 10. identify human continuity and change from the time of river valley civilizations through the early Middle Ages. |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7 and R.S. 17:24.4(F)(2).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:999 (June 2007).

§1717. Grade 7 Achievement Level Descriptors

A. Grade 7 English Language Arts Achievement Level Descriptors

| Advanced |
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| <p>Students scoring at the Advanced level in English Language Arts generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. identify meanings of words using a variety of strategies, including knowledge of base words and roots; 2. demonstrate understanding of what they read using a variety of complex strategies, including inductive reasoning, identifying implied main ideas and supporting details, and comparing and contrasting literary elements; 3. analyze and interpret complex story elements, literary devices, elements of various genres, and author's purpose; 4. research a topic by selecting and integrating information from multiple print and electronic sources; |

| Advanced |
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| <ol style="list-style-type: none"> 5. identify all parts of a bibliographic entry following a model; 6. develop a creative, effective and insightful response to a writing task; 7. construct a response with a clearly stated central idea, logical organization, effective and thorough elaboration, and a variety of transitional words and phrases; 8. show audience awareness by selecting vocabulary, language, and sentence structures to engage the audience, enhance meaning, and reflect individual voice or personality; and 9. maintain consistent command of sentence formation, usage, mechanics, and spelling. |
| Mastery |
| <p>Students scoring at the Mastery level in English Language Arts generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. identify word meanings using a variety of strategies; 2. analyze what they read using a variety of reasoning skills, including deductive reasoning; 3. identify story elements, literary devices, and effect of an author's bias or perspective; 4. use knowledge of the distinctive characteristics of various genres to identify elements; 5. research a topic by locating and selecting information from multiple print and electronic sources; 6. identify all parts of a bibliographic entry following a model; 7. use analytical, critical, and/or creative thinking in response to a writing task; 8. construct a response with a focused central idea, logical organization, sufficient elaboration, and effective transitions; 9. show audience awareness by using language and sentences selected to engage the audience and reflect individual personality; and 10. demonstrate reasonable command of sentence formation, usage, mechanics, and spelling. |
| Basic |
| <p>Students scoring at the Basic level in English Language Arts generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. identify meanings of grade-level words using a variety of strategies; 2. demonstrate understanding of what they read by using basic strategies, including stated main idea and supporting details; 3. identifying cause-effect relationships; sequencing events; and predicting the outcome of a story or situation; 4. identify story elements, including character motivation or plot sequence, some literary devices, and an author's purpose; 5. classify and interpret elements of various genres, including fiction, nonfiction, and poetry; 6. research a topic by locating information in commonly used reference sources; 7. identify parts of a bibliographic entry for commonly used sources following a model; 8. demonstrate an appropriate response to a writing task; 9. construct a response with a central idea, an appropriate organizational pattern, necessary details, and simple transitions; 10. demonstrate limited audience awareness by using simple sentences and vocabulary; and 11. demonstrate partial command of sentence formation, usage, mechanics, and spelling. |
| Approaching Basic |
| <p>Students scoring at the Approaching Basic level in English Language Arts generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. identify meanings of commonly used words using a variety of strategies, including context clues; 2. demonstrate some understanding of what they read in grade-appropriate texts using simple strategies such as making predictions; 3. identify basic story elements and some literary devices; |

| Approaching Basic | |
|---|---|
| 4. | identify some elements of various genres, including fiction, nonfiction, or poetry; |
| 5. | research a topic by locating information in commonly used resources; |
| 6. | identify some parts of a bibliographic entry following a model; |
| 7. | demonstrate a limited response to a writing task; |
| 8. | construct a response with an unclear central idea, a weak organizational pattern, minimal supporting details, and simple or no transitions; |
| 9. | show limited audience awareness through the use of simple or inappropriate vocabulary and sentences; and |
| 10. | demonstrate inconsistent or little command of sentence formation, usage, mechanics, and spelling. |
| Unsatisfactory | |
| Students scoring at the Unsatisfactory level in English Language Arts have not demonstrated the fundamental knowledge and skills needed for the next level of schooling. Students scoring at this level need to develop the ability to: | |
| 1. | demonstrate an understanding of what they read; |
| 2. | make interpretations and extensions of ideas in texts; |
| 3. | make connections between information in texts and their own experiences; |
| 4. | locate information in commonly used sources; |
| 5. | develop an appropriate response to a writing task; |
| 6. | construct a response with a focused central idea, observable organization, and sufficient supporting details; |
| 7. | show audience awareness through use of appropriate vocabulary, varied sentence structure, and personal style; and |
| 8. | demonstrate acceptable command of sentence formation, usage, mechanics, and spelling. |

B. Grade 7 Mathematics Achievement Level Descriptors

| Advanced | |
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| Students scoring at the Advanced level in Mathematics generally exhibit the ability to: | |
| 1. | translate problems into and solve two-step equalities and inequalities; |
| 2. | evaluate algebraic expressions containing exponents and square roots; |
| 3. | apply proportional reasoning to solve complex problems including applications and comparisons involving positive rational numbers; |
| 4. | understand and draw conclusions based on the relationship between measures of polygons and circles, such as change in perimeter vs. change in area and change in radius vs. change in circumference; |
| 6. | determine trends and make predictions based on various displays of discrete and continuous data; |
| 7. | describe basic exponential sequences and patterns and describe and apply rules used to determine function outputs, given their inputs; |
| 8. | order and compare measurements within and between measurement systems, including temperature; and |
| 9. | apply concepts of transformations involving reflections and translations on a coordinate grid. |

| Mastery | |
|---|--|
| Students scoring at the Mastery level in Mathematics generally exhibit the ability to: | |
| 1. | solve multi-step problems involving non-negative rational numbers and negative integers; |
| 2. | evaluate simple algebraic expressions using substitution; |
| 3. | describe the angle and measurement properties of polygons and circles; |
| 4. | graph solutions of equations and inequalities and make comparisons of positive rational numbers on a number line; |
| 5. | determine area and perimeter of simple composite geometric shapes; |
| 6. | describe rules used to determine various arithmetic and geometric sequences; |
| 7. | describe and interpret a variety of graphs that display discrete and continuous data; |
| 8. | determine experimental probability; and |
| 9. | order measurements within and between measurement systems. |
| Basic | |
| Students scoring at the Basic level in Mathematics generally exhibit the ability to: | |
| 1. | solve one- and two-step equations and inequalities; |
| 2. | calculate circumference and area of circles; |
| 3. | estimate and compute equivalent fractions, percents, and decimals; |
| 4. | recognize and extend patterns involving fractions and negative numbers; |
| 5. | convert between common measurements in the same system; |
| 6. | draw and identify angles and measurements in simple polygons and circles; |
| 7. | demonstrate a conceptual understanding of the differences between discrete and continuous data; |
| 8. | compute simple probabilities and use basic mathematical terms associated with probability, such as event and favorable outcomes; and |
| 9. | recognize geometric transformations. |
| Approaching Basic | |
| Students scoring at the Approaching Basic level in Mathematics generally exhibit the ability to: | |
| 1. | solve single-step problems involving positive rational numbers; |
| 2. | match algebraic equations and inequalities to verbal statements; |
| 3. | order measurements within the same system; |
| 4. | identify points in all four quadrants of a coordinate grid; |
| 5. | interpret discrete data from a variety of graphs; and |
| 6. | extend simple number patterns. |
| Unsatisfactory | |
| Students scoring at the Unsatisfactory level in Mathematics have not demonstrated the fundamental knowledge and skills needed for the next level of schooling. Students scoring at this level need to develop the ability to: | |
| 1. | solve single-step problems involving positive rational numbers; |
| 2. | match algebraic equations and inequalities to verbal statements; |
| 3. | order measurements within the same system; |
| 4. | identify points in all four quadrants of a coordinate grid; |
| 5. | interpret discrete data from a variety of graphs; and |
| 6. | extend simple number patterns. |

C. Grade 7 Science Achievement Level Descriptors

| Advanced |
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| <p>Students scoring at the Advanced level in science generally exhibit the ability to:</p> <ol style="list-style-type: none"> analyze investigations by researching and evaluating testable questions, dependent and independent variables, and experimental designs; select appropriate tools and resources for data collection and analyze data to evaluate explanations, make inferences, and predict trends; communicate related research, experimental procedures, data, and analyses in a variety of appropriate methods; explain how science is tested, revised, and advanced through problem solving, mathematics, technology, and communications; compare functions of plant and animal cell structures (i.e., organelles) and explain why the life cycles of plants and animals differ; analyze how the cell processes of osmosis, diffusion, respiration, and photosynthesis are necessary for an organism's survival; describe the growth and development of humans from infancy to old age and various factors affecting this development; analyze how the failure of organs or systems affects health and how methods of transferring genetic information impact an organism; analyze factors that affect relationships between organisms in ecosystems and describe how adaptation help species survive; analyze the roles of components in ecosystems, the resources humans derive from ecosystems, and the impact of human activities; compare, describe, or analyze ecosystems by using the movement of energy and the effects of limiting factors and carrying capacity; and compare and contrast the nitrogen and carbon cycles and explain why they are important for the survival of organisms. |
| Mastery |
| <p>Students scoring at the Mastery level in science generally exhibit the ability to:</p> <ol style="list-style-type: none"> compare investigations by identifying and evaluating testable questions, variables, and experimental designs; select appropriate tools and resources for data collection and analyze data to evaluate explanations, make inferences, and predict trends; communicate experimental procedures, data, and analyses in a variety of appropriate methods; describe how science is tested, revised, and advanced through problem solving, mathematics, technology, and communication; describe functions of plant and animal cell structures (i.e., organelles) and compare the life cycles of plants and animals; compare the cell processes of osmosis and diffusion and respiration and photosynthesis; classify organisms using a dichotomous key and describe the growth and development of humans from infancy to old age; relate the functions of organs, systems, and overall health in sustaining life and describe methods of transferring genetic information; describe and compare relationships between organisms in ecosystems and explain how adaptations help species survive; compare the roles of components in ecosystems, the resources humans derive from ecosystems, and impact of human activities; identify, describe, or explain ecosystems by using the movement of energy and the effects of limiting factors and carrying capacity; and compare and contrast the nitrogen and carbon cycles and explain why they are important for the survival of organisms. |

| Basic |
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| <p>Students scoring at the Basic level in science generally exhibit the ability to:</p> <ol style="list-style-type: none"> describe investigations by comparing or recognizing testable questions, variables, and experimental designs; select appropriate tools and resources for data collection and analyze data to develop explanations, make inferences, and predict trends; communicate experimental procedures, data, and analyses through appropriate methods; describe how science is tested, revised, and advanced through problem solving, mathematics, technology, and communication; differentiate between plants and animals by their cell structures (i.e., organelles) and describe the life cycles of plants and animals; describe the cell processes of osmosis, diffusion, respiration, and photosynthesis; classify organisms using a dichotomous key and describe human growth and development; describe the functions of organs and organ systems and identify methods of transferring genetic information; describe relationships between organisms in ecosystems and how adaptations help species survive; identify the roles of components in ecosystems, the resources humans derive from ecosystems, and the impact of human activities; identify and describe ecosystems by using the movement of energy and the effects of limiting factors carrying capacity; and describe and explain the nitrogen and carbon cycles. |
| Approaching Basic |
| <p>Students scoring at the Approaching Basic level in science generally exhibit the ability to:</p> <ol style="list-style-type: none"> describe an investigation by identifying testable questions and variables; select tools and resources correctly to collect and analyze data to evaluate explanations and make inferences; communicate experimental procedures, data, and analyses; describe how science is tested, revised, and advanced, and identify that mathematics and technology improve science; identify functions of plant and animal cell structures (i.e., organelles) and describe parts of the life cycles of plants and animals; identify the cell processes of osmosis, diffusion, respiration, and photosynthesis; classify organisms using a dichotomous key and know that different factors affect human growth or development over time; identify functions of organs and identify the role of genetic information in an organism; identify relationships between organisms in ecosystems and recognize adaptations; identify the components of ecosystems as living or nonliving and know that humans' use of ecosystem resources can have impact; identify the roles of organisms in a food chain and factors that limit the carrying capacity and restrict the growth of populations; and identify parts of the nitrogen and carbon cycles. |
| Unsatisfactory |
| <p>Students scoring at the Unsatisfactory level in science have not demonstrated the fundamental knowledge and skills needed for the next level of schooling. Students scoring at this level need to develop the ability to:</p> <ol style="list-style-type: none"> describe an investigation by identifying testable questions and variables; select tools and resources correctly to collect and analyze data to evaluate explanations and make inferences; communicate experimental procedures, data, and analyses; describe how science is tested, revised, and advanced, and identify that mathematics and technology improve science; identify functions of plant and animal cell structures (i.e., organelles) and describe parts of the life cycles of plants and animals; |

| Unsatisfactory | |
|-----------------------|--|
| 6. | identify the cell processes of osmosis, diffusion, respiration, and photosynthesis; |
| 7. | classify organisms using a dichotomous key and know that different factors affect human growth or development over time; |
| 8. | identify functions of organs and identify the role of genetic information in an organism; |
| 9. | identify relationships between organisms in ecosystems and recognize adaptations; |
| 10. | identify the components of ecosystems as living or nonliving and know that humans' use of ecosystem resources can have impact; |
| 11. | identify the roles of organisms in a food chain and factors that limit the carrying capacity and restrict the growth of populations; and |
| 12. | identify parts of the nitrogen and carbon cycles. |

D. Grade 7 Social Studies Achievement Level Descriptors

| Advanced | |
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| Students scoring at the Advanced level in social studies generally exhibit the ability to: | |
| 1. | apply geographical data and tools and analyze the impact of the United States' physical structure on historical events; |
| 2. | analyze cultural aspects of the development of the United States and the effects of natural resources on regional differences; |
| 3. | analyze the structure and purposes of government in the world and in the United States; |
| 4. | analyze how ancient governments influenced American democracy and culture; |
| 5. | analyze the U.S. political system from 1781 to 1860 and factors contributing to conflict and cooperation among nations; |
| 6. | analyze the nature of U.S. citizen rights and responsibilities in society; |
| 7. | analyze ideas found in the Mayflower Compact and the Declaration of Independence; |
| 8. | analyze Mercantilism's role in colonization and conflict and U.S. economic activity contributing to international interdependence; |
| 9. | interpret graphic and narrative sources of information; |
| 10. | analyze and interpret the contributions of significant figures and events in U.S. history from 1763 to 1860; and |
| 11. | analyze national continuity and change from the pre-Revolutionary Era through the beginning of the American Civil War. |
| Mastery | |
| Students scoring at the Mastery level in social studies generally exhibit the ability to: | |
| 1. | interpret and manipulate geographical data and tools and explain the impact of the United States' physical structure on historic events; |
| 2. | explain the cultural aspects of the development of the United States and the impact of natural resources on regional differences; |
| 3. | explain the structure and purposes of government in the world and in the United States; |
| 4. | explain how ancient governments influenced American democracy and culture; |
| 5. | explain changes in the American political system from 1781 to 1860 and factors contributing to conflict and cooperation among nations; |
| 6. | explain aspects of U.S. citizen rights and responsibilities in society; |
| 7. | explain ideas found in the Mayflower Compact and the Declaration of Independence; |

| Mastery | |
|---|---|
| 8. | explain Mercantilism's role in colonization and conflict and how U.S. economic activity contributed to international interdependence; |
| 9. | interpret graphic and narrative sources of information; |
| 10. | explain the contributions of significant figures and events in U.S. history from 1763 to 1860; and |
| 11. | explain aspects of national continuity and change from the pre-Revolutionary Era through the beginning of the American Civil War. |
| Basic | |
| Students scoring at the Basic level in social studies generally exhibit the ability to: | |
| 1. | use geographical data and tools to explain and describe the impact of the United States' physical structure on historical events; |
| 2. | describe cultural aspects of the development of the United States and the impact of natural resources on regional differences; |
| 3. | describe the structure and purposes of government in the world and in the United States; |
| 4. | explain how ancient governments influenced American democracy and culture; |
| 5. | describe changes in the U.S. political system from 1781 to 1860 and factors contributing to conflict and cooperation among nations; |
| 6. | describe aspects of U.S. citizen rights and responsibilities in society; |
| 7. | explain ideas found in the Mayflower Compact and the Declaration of Independence; |
| 8. | describe Mercantilism's role in colonization and conflict and U.S. economic activity contributing to international interdependence; |
| 9. | explain graphic sources of information and describe the importance of information obtained from narrative sources of information; |
| 10. | describe contributions of significant figures and events in U.S. history from 1763 to 1860; and |
| 11. | describe national continuity and change from the pre-Revolutionary Era through the beginning of the American Civil War. |
| Approaching Basic | |
| Students scoring at the Approaching Basic level in social studies generally exhibit the ability to: | |
| 1. | identify geographical data and tools and describe the impact of the United States' physical structure on historical events; |
| 2. | recognize cultural aspects of the development of the United States and the impact of natural resources on regional differences; |
| 3. | identify the structure and purposes of government in the world and in the United States; |
| 4. | identify how ancient governments influenced American democracy and culture; |
| 5. | recognize elements of the U.S. political system from 1781 to 1860 and factors contributing to conflict and cooperation among nations; |
| 6. | describe aspects of U.S. citizen rights and responsibilities in society; |
| 7. | describe ideas found in the Mayflower Compact and the Declaration of Independence; |
| 8. | define Mercantilism's role in colonization and conflict and U.S. economic activity contributing to international interdependence; |
| 9. | identify historical information in graphic form and identify various narrative sources of information; |
| 10. | identify significant personalities and events from 1763 to 1860; and |
| 11. | identify national continuity and change from the Early National Period through the beginning of the American Civil War. |

Unsatisfactory

Students scoring at the Unsatisfactory level in social studies have not demonstrated the fundamental knowledge and skills needed for the next level of schooling. Students scoring at this level need to develop the ability to:

1. identify geographical data and tools and describe the impact of the United States' physical structure on historical events;
2. recognize cultural aspects of the development of the United States and the impact of natural resources on regional differences;
3. identify the structure and purposes of government in the world and in the United States;
4. identify how ancient governments influenced American democracy and culture;
5. recognize elements of the U.S. political system from 1781 to 1860 and factors contributing to conflict and cooperation among nations;
6. describe U.S. citizen rights and responsibilities in society;
7. describe ideas found in the Mayflower Compact and the Declaration of Independence;
8. define Mercantilism's role in colonization and conflict and U.S. economic activity contributing to international interdependence;
9. identify historical information in graphic form and identify various narrative sources of information;
10. identify significant personalities and events from 1763 to 1860; and
11. identify national continuity and change from the Early National Period through the beginning of the American Civil War.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7 and R.S. 17:24.4(F)(2).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:1002 (June 2007).

§1719. Grade 9 Achievement Level Descriptors

A. Grade 9 English Language Arts Achievement Level Descriptors

Advanced

Students scoring at the Advanced level in English Language Arts generally exhibit the ability to:

1. identify meanings of a wide variety of general and technical words using a full range of strategies;
2. demonstrate literal and inferential understanding of what they read by making inferences, predictions, and generalizations; interpreting cause/effect relationships; reasoning inductively and deductively; and making connections of ideas to real-life experiences;
3. analyze, including comparing and contrasting, complex story elements, literary devices, ideas, and an author's purpose and viewpoint;
4. research a topic by selecting and evaluating relevant information from a variety of print and electronic sources;
5. identify accurate parenthetical citations and bibliographic entries using a model;
6. use analytical, critical, and/or creative thinking in response to a writing task;
7. construct a response with a clear central idea, logical and cohesive organization, thorough elaboration with a variety of supporting details; and a variety of varied, effective transitions;
8. demonstrate an awareness of audience through rich creative vocabulary and sentence structure that reflects voice or personality; and
9. maintain consistent command of sentence formation, usage, mechanics, and spelling.

Mastery

Students scoring at the Mastery level in English Language Arts generally exhibit the ability to:

1. identify meanings of a variety of words using a variety of strategies;
2. demonstrate understanding of what they read using a variety of strategies, such as making inferences, predictions, and generalizations; drawing conclusions; determining cause/effect relationships; and reasoning inductively and deductively;
3. interpret and compare/contrast complex story elements, literary devices, ideas, and an author's purpose and viewpoint;
4. use knowledge of the distinctive characteristics of various genres to interpret elements;
5. research a topic by selecting and analyzing information from multiple print and electronic sources;
6. identify accurate parenthetical citations and bibliographic entries using a model;
7. use analytical, critical, and/or creative thinking in response to a writing task;
8. construct a response with a central idea, logical organization, relevant elaboration, and varied, effective transitions;
9. demonstrate an awareness of audience through varied vocabulary and sentence structure; and
10. demonstrate reasonable command of sentence formation, usage, mechanics, and spelling.

Basic

Students scoring at the Basic level in English Language Arts generally exhibit the ability to:

1. identify meanings of grade-level words using various strategies;
2. demonstrate understanding of what they read by identifying ideas and information from texts using various strategies such as sequencing; making simple inferences, predictions, and generalizations; drawing conclusions; and identify stated cause/effect relationships;
3. identify and compare story elements, literary devices, main ideas, and an author's purpose and viewpoint;
4. identify the distinctive characteristics of various genres;
5. research a topic by selecting relevant information from a variety of print and electronic sources;
6. identify accurate bibliographic entries using a model;
7. demonstrate some evidence of critical and/or creative thinking in response to a writing task;
8. construct a response with a central idea, some conscious organization, some supporting information, and simple transitions;
9. demonstrate audience awareness through some variety in vocabulary and sentence structure; and
10. demonstrate partial command of sentence formation, usage, mechanics, and spelling.

Approaching Basic

Students scoring at the Approaching Basic level in English Language Arts generally exhibit the ability to:

1. identify meanings of commonly used words;
2. demonstrate partial understanding of what they read using strategies such as identifying simple sequences, drawing simple conclusions, making predictions and simple generalizations, and identifying stated cause/effect relationships;
3. identify simple literary elements, devices, main ideas, and an author's stated purpose;
4. research a topic by locating and selecting some information from print and electronic sources;
5. identify accurate bibliographic entries for commonly used sources using a model;
6. demonstrate a limited response to a writing task;
7. construct a response with a weak central idea, some evidence of organization, minimal details, and few transitions;
8. demonstrate a limited awareness of audience through selection of simple or inappropriate vocabulary, and lack of sentence variety; and
9. demonstrate little or no command of sentence formation, usage, mechanics, and spelling.

| Unsatisfactory |
|---|
| <p>Students scoring at the Unsatisfactory level in English Language Arts have not demonstrated the fundamental knowledge and skills needed for the next level of schooling. Students scoring at this level need to develop the ability to:</p> <ol style="list-style-type: none"> 1. demonstrate an understanding of what they read; 2. identify simple story or literary elements, and elements of an author's style; 3. make simple or broad connections between texts and personal experiences; 4. locate information in commonly used sources; 5. develop an appropriate response to a writing task; 6. construct a response with a focused central idea, an observable organizational pattern, and sufficient supporting details; 7. show audience awareness through use of appropriate vocabulary, varied sentence structure, and personal style; and 8. demonstrate acceptable command of sentence formation usage, mechanics, and spelling. |

B. Grade 9 Mathematics Achievement Level Descriptors

| Advanced |
|---|
| <p>Students scoring at the Advanced level in Mathematics generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. evaluate, simplify, and solve problems involving scientific notations; 2. apply proportional reasoning to model and solve real-life problems involving direct and inverse variation; 3. use a variety of methods to solve problems involving 2 X 2 systems of linear equations; 4. graphically represent the solution of a 2 X 2 system of linear inequalities; 5. determine appropriate units and scales to use when solving measurement problems; 6. perform translations and line reflections in the coordinate plane; 7. translate fluently between tabular, graphical, and algebraic representations of functions; 8. compare, contrast, and describe characteristics of linear functions and basic families of functions; and 9. solve problems involving indirect measurement and express results in terms of the degrees of accuracy and precision. |
| Mastery |
| <p>Students scoring at the Mastery level in Mathematics generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. evaluate and simplify algebraic expressions involving order of operations with rational numbers; 2. apply proportional reasoning to model and solve real-life problems involving direct variation; 3. represent real-life situations as linear equations or inequalities and find solutions; 4. graphically represent 2 X 2 systems of equations and identify the solution; 5. make measurements based on the degree of precision or accuracy needed; 6. use points to describe translations and line reflections; 7. understand the relationship of the constants and coefficients in a linear function to the graph of the function; and 8. identify and describe the characteristics of families of linear functions. |
| Basic |
| <p>Students scoring at the Basic level in Mathematics generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. represent numbers as exponential expressions with positive, integral exponents; 2. recognize and graph linear equations and use appropriate terminology to describe and interpret slope, intercept, point, intersection, etc.; 3. understand the language of algebra and make appropriate translations between verbal and symbolic representations; 4. choose appropriate common units (U.S. and metric) to make measurements; 5. draw translations and line reflections in a coordinate system; |

| Basic |
|--|
| <ol style="list-style-type: none"> 6. solve multi-step equations and inequalities in one variable; and 7. read, organize, construct, and interpret data presented in a variety of formats and make generalizations using these representations. |
| Approaching Basic |
| <p>Students scoring at the Approaching Basic level in Mathematics generally exhibit the ability to:</p> <ol style="list-style-type: none"> 1. perform basic operations with positive rational numbers; 2. locate points on a coordinate grid; 3. use calculators to evaluate polynomials for given values of the variables; 4. make measurements using common (U.S. and metric) measurement units; and 5. follow and interpret processes expressed in flow charts. |
| Unsatisfactory |
| <p>Students scoring at the Unsatisfactory level in Mathematics have not demonstrated the fundamental knowledge and skills needed for the next level of schooling. Students scoring at this level need to develop the ability to:</p> <ol style="list-style-type: none"> 1. perform basic operations with positive rational numbers; 2. locate points on a coordinate grid; 3. use calculators to evaluate polynomials for given values of the variables; 4. make measurements using common (U.S. and metric) measurement units; and 5. follow and interpret processes expressed in flow charts. |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7 and R.S. 17:24.4(F)(2).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:1006 (June 2007).

Editor's Note: The following Subchapter is being repromulgated to show new placement.

Subchapter E. iLEAP Assessment Structure **§1721. Content Standards**

A. The iLEAP tests are aligned to Louisiana content standards, benchmarks, and GLEs. They measure student's knowledge of standards by grade spans through norm-referenced tests (NRTs) and criterion-referenced tests (CRTs). The test's format consists of:

1. Survey/Core Battery:
 - a. obtains information that can support instructional decisions made by teachers in the classroom;
 - b. provides information to students and their parents for monitoring student growth from grade to grade;
 - c. examines the yearly progress of grade groups as they pass through the school's curriculum;
2. GLEs/Benchmarks:
 - a. define the knowledge and skills students are expected to master by the end of each grade or high school course;
3. Standards:
 - a. broad goals for what all students in Louisiana should know and be able to do at any grade level.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7 and R.S. 17:24.4(F)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:267 (February 2007), repromulgated LR 33:1007 (June 2007).

§1723. English Language Arts Tests Structure

A. The English Language Arts test includes NRT items from the Survey Battery of the ITBS for grades 3, 5, 6, and 7 and a CRT component. The tests are administered over two days.

1. The (NRT) ITBS Survey Battery component and standards measured at grades 3, 5, 6, and 7 include the following.

- a. Reading:
 - i. vocabulary; and
 - ii. reading comprehension.
- b. Language:
 - i. spelling;
 - ii. capitalization;
 - iii. punctuation; and
 - iv. usage and expression.
- c. Louisiana English language arts standards measured by the NRT components include the following.
 - i. Standard 1. Students read, comprehend, and respond to a range of materials, using a variety of strategies for different purposes.
 - ii. Standard 6. Students read, analyze, and respond to literature as a record of life experiences. This standard is not tested at grade 3.
 - iii. Standard 7. Students apply reasoning and problem-solving skills to their reading, writing, speaking, listening, viewing, and visually representing.
 - iv. Standard 2. Students write competently for a variety of purposes and audiences.
 - v. Standard 3. Students communicate using standard English grammar, usage, sentence structure, punctuation, capitalization, spelling, and handwriting.
- 2. The (CRT) Components and standards measured at grades 3, 5, 6, and 7 include the following:
 - a. writing; and
 - b. using information resources;
 - c. Louisiana English language arts standards measured by the CRT components include the following:
 - i. Standard 2. Students write competently for a variety of purposes and audiences;
 - ii. Standard 5. Students locate, select, and synthesize information from a variety of texts, media, references, and technological sources to acquire and communicate knowledge.
- B. At grade 9, the English language arts test includes a NRT component from the Core Battery of the ITED and a CRT component. The tests are administered over two days.
 - 1. The (NRT) ITED Core Battery components and standards measured include the following:
 - a. vocabulary;
 - b. reading comprehension; and
 - c. language: revising written materials.
 - d. Louisiana English language arts standards measured include the following:
 - i. Standard 1. Students read, comprehend, and respond to a range of materials, using a variety of strategies for different purposes;
 - ii. Standard 2. Students write competently for a variety of purposes and audiences;
 - iii. Standard 3. Students communicate using standard English grammar, usage, sentence structure, punctuation, capitalization, spelling, and handwriting;
 - iv. Standard 6. Students read, analyze, and respond to literature as a record of life experiences; and
 - v. Standard 7. Students apply reasoning and problem-solving skills to their reading, writing, speaking, listening, viewing, and visually representing.
- 2. The Criterion-Referenced (CRT) Components and standards measured include the following:
 - a. writing; and

- b. using information resources;
- c. Louisiana English language arts standards measured by the CRT components include the following:
 - i. Standard 2. Students write competently for a variety of purposes and audiences;
 - ii. Standard 5. Students locate, select, and synthesize information from a variety of texts, media, references, and technological sources to acquire and communicate knowledge.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and R.S. 17:24.4(F)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:267 (February 2007), repromulgated LR 33:1007 (June 2007).

§1725. Math Tests Structure

A. At grades 3, 5, 6, and 7 the Math tests include NRT items from the Survey Battery of the ITBS. The tests are administered over one day.

- 1. The NRT Component includes the following:
 - a. multiple-choice items that assess Concepts and Estimation; and
 - b. multiple-choice items that assess Problem Solving and Data Interpretation.
- 2. The CRT Component includes the following:
 - a. multiple-choice items that assess Louisiana's standards, benchmarks, and GLEs. The items include NRT items that align to the Louisiana content standards and GLEs;

- b. constructed-response items that assess one or more strands, benchmarks, and/or GLEs that require students to demonstrate the connection of the strand to the other strands and to real-life situations.

B. At grade 9, the Math test includes NRT items from the Core Battery of the ITED with the exception of computation. The test is administered over one day.

- 1. The NRT Component includes the following:
 - a. multiple-choice items that assess Math Concepts and Problem-Solving.
- 2. The CRT Component includes the following.
 - a. Multiple-choice items that assess Louisiana standards, benchmarks, and GLEs. This part includes NRT items that align to the Louisiana content standards and GLEs.

- b. Constructed-response items that involve a number of separate steps and require application of multiple skills. The items are designed to assess one or more of the strands, benchmarks, and/or GLEs that require students to demonstrate the connection of the strand to the other strands and to real-life situations.

C. The NRT and CRT standards measured are:

- 1. Strand N: Number and Number Relations
 - a. Standard. In problem-solving investigations, students demonstrate an understanding of the real number system and communicate the relationships within that system using a variety of techniques and tools;
- 2. Strand A: Algebra
 - a. Standard. In problem-solving investigations, students demonstrate an understanding of concepts and processes that allow them to analyze, represent, and describe relationships among variable quantities and to apply algebraic methods to real-world situations;

3. Strand M: Measurement
a. Standard. In problem-solving investigations, students demonstrate an understanding of concepts, processes, and real-life applications of measurement;

4. Strand G: Geometry
a. Standard. In problem-solving investigations, students demonstrate an understanding of geometric concepts and applications involving one-, two-, and three-dimensional geometry, and justify their findings;

5. Strand D: Data Analysis, Probability, and Discrete Math

a. Standard. In problem-solving investigations, students discover trends, formulate conjectures regarding cause-and-effect relationships, and demonstrate critical-thinking skills in order to make informed decisions;

6. Strand P: Patterns, Relations, and Functions
a. Standard. In problem-solving investigations, students demonstrate an understanding of patterns, relations, and functions that represent and explain real-world situations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4(A)(1)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:268 (February 2007), repromulgated LR 33:1008 (June 2007).

§1727. Science Tests Structure

A. The Science test includes CRT items and has one session.

1. The Science tests use multiple-choice items to assess concepts and skills in all or part of the five strands of science.

2. The Science test is entirely criterion-referenced. All items are based on Louisiana's content standards and aligned with Louisiana's GLEs.

B. Science is assessed in grades 3, 5, 6, and 7.

1. Grades 3 and 5 tests assess all five science strands.

2. Grade 6 test assesses three of the five science strands. They are as follows:

- a. Science as Inquiry;
- b. Physical Science; and
- c. Science and the Environment.

3. Grade 7 test assesses three of the five science strands. They are as follows:

- a. Science as Inquiry;
- b. Life Science; and
- c. Science and the Environment.

C. Each of the five science strands is associated with a single standard.

1. Strand: Science as Inquiry

a. Standard. Students will do science by engaging in partial and full inquiries that are within their developmental capabilities.

2. Strand: Physical Science

a. Standard. Students will develop an understanding of the characteristics and interrelationships of matter and energy in the physical world.

3. Strand: Life Science

a. Standard. Students will become aware of the characteristics and life cycles of organisms and understand their relationships to each other and their environment.

4. Strand: Earth and Space Science

a. Standard. Students will develop an understanding of the properties of earth materials, the structure of Earth's system, Earth's history, and Earth's place in the universe.

5. Strand: Science and the Environment

a. Standard. In learning environmental science, students will develop an appreciation of the natural environment, learn the importance of environmental quality, and acquire a sense of stewardship. As consumers and citizens, they will be able to recognize how our personal, professional, and political actions affect the natural world.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4(A)(1)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 33:269 (February 2007), repromulgated LR 33:1009 (June 2007).

§1729. Social Studies Tests Structure

A. The Social Studies test includes CRT items and has one section.

1. The Social Studies tests use multiple-choice items to assess concepts and skills in all or part of the four content strands: Geography, Civics, Economics, and History.

2. The Social Studies tests is entirely criterion-referenced. All items are based on Louisiana's content standards and aligned with Louisiana's GLEs.

B. Social Studies is assessed in grades 3, 5, 6, and 7 are as follows:

1. Grade 3 assesses all four social studies strands;

2. Grades 5 and 6 assess two of the four social studies strands. They are as follows:

- a. Geography; and
- b. History.

3. Grade 7 assesses three of the four social studies strands. They are as follows:

- a. Geography;
- b. History; and
- c. Civics.

C. The Social Studies strands assessed are as follows.

1. Strand G: Geography: Physical and Cultural Systems

a. Standard. Students develop a spatial understanding of Earth's surface and the processes that shape it, the connections between people and places, and the relationship between man and the environment.

2. Strand C: Civics: Citizenship and Government

a. Standard. Students develop an understanding of the structure and purposes of government, the foundations of the American democratic system, and the role of the United States in the world while learning about the rights and responsibilities of citizenship.

3. Strand E: Economics: Interdependence and Decision Making

a. Standard. Students develop an understanding of fundamental economic concepts as they apply to the interdependence and decision making of individuals, households, businesses, and governments in the United States and the world.

4. Strand H: History: Time, Continuity, and Change

a. Standard. Students develop a sense of historical time and historical perspective as they study the history of their community, state, nation, and world.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4(A)(1)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:269 (February 2007), repromulgated LR 33:1009 (June 2007).

Chapter 33. Assessment of Special Populations
§3306. Approved Accommodations for Special Education and Section 504 Students.

A. - A.6.a ...

b. No passages, questions, or distractors (multiple choices) of any English language arts test that measures reading comprehension may be signed or cued. Such tests include the Reading and Responding session of LEAP, GEE, and LAA 2, Reading, Part 2 of *i*LEAP grades 3, 5, 6, and 7, Reading Comprehension of *i*LEAP grade 9 and the "old" GEE, Reading session of ELDA, and any others developed to measure this skill. Directions only to these sessions may be signed or cued. When signing or cueing, the test administrator must exercise caution to avoid providing answers. It is a breach of test security to provide signs or cues that convey answers.

7 - 8.a. ...

9. Tests Read Aloud. Students may be allowed to have portions of the tests read to them, with the exception of portions designed to measure reading comprehension, which are clearly designated in the *Test Administration Manuals*. No passages, questions, or distractors (multiple choices) of any English language arts assessment that measures reading comprehension may be read aloud. Such tests include the Reading and Responding session of LEAP, GEE, and LAA 2, Reading, Part 2 of *i*LEAP grades 3, 5, 6, and 7, Reading Comprehension of *i*LEAP grade 9 and the "old" GEE, Reading session of ELDA, and any others developed to measure this skill. Directions only to these sessions may be signed or cued. When signing or cueing, the test administrator must exercise caution to avoid providing answers. It is a breach of test security to provide signs or cues that convey answers.

10. - 10.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4(A)(1)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 33:269 (February 2007), amended LR 33:1010 (June 2007).

§3307. Limited English Proficient Students

A. - C.1.c. ...

d. Tests Read Aloud. Students may be allowed to have portions of the tests read to them, with the exception of portions designed to measure reading comprehension, which are clearly designated in the *Test Administration Manuals*. No passages, questions, or distractors (multiple choices) of any English language arts assessment that measures reading comprehension may be read aloud. Such tests include the Reading and Responding session of LEAP, GEE, and LAA 2, Reading, Part 2 of *i*LEAP grades 3, 5, 6, and 7, Reading Comprehension of *i*LEAP grade 9 and the "old" GEE, Reading session of ELDA, and any others developed to measure this skill. Directions only to these sessions may be signed or cued. When signing or cueing, the test administrator must exercise caution to avoid providing answers. It is a breach of test security to provide signs or cues that convey answers.

e. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4(A)(1)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1562 (July 2005), amended LR 32:240 (February 2006), LR 33:264 (February 2007), LR 33:1010 (June 2007).

Weegie Peabody
Executive Director

0706#005

RULE

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Control of Emissions of Sulfur Dioxide
(LAC 33:III.1502, 1503, 1507, 1511, and 1513)(AQ271)

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.1502, 1503, 1507, 1511, and 1513 (Log #AQ271).

Several sources to which these regulations apply have expressed confusion regarding compliance with the emission limitations, monitoring, recordkeeping, and reporting requirements. This rule clarifies the emission limitations with which an emissions unit must comply, as well as the test methods that an emissions unit must use to verify compliance with the limitations. For sulfur dioxide, Test Method 6 is replaced with Test Method 6C. For oxides of nitrogen, Test Method 7 is replaced with Test Method 7E. These changes are made to more accurately reflect the proper test methods for these pollutants. This rule defines the monitoring, recordkeeping, and reporting requirements applicable to sources subject to any provision of LAC 33:III.1511. Emphasis is placed on the method of compliance for those sources that choose to comply with LAC 33:III.1511.C, which provides for an alternative method of compliance. New criteria are established by which an emissions unit may be determined to be exempt from the provisions of LAC 33:III.Chapter 15 and by which this Chapter may be determined to not apply to an emissions unit. This Chapter no longer applies to sources that emit less than five tons per year of sulfur dioxide. Sources that comply with 40 CFR 75 are exempt from the recordkeeping requirements of this Chapter. This rule changes the method by which an emissions unit may seek a four-hour exemption under LAC 33:III.1507. Rather than wait for approval from the department, the source may instead submit a report after the fact that documents the activity to be exempted. The basis and rationale for this rule are to clarify the regulations and establish proper terms and conditions to facilitate compliance with the 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 15. Emission Standards for Sulfur Dioxide

§1502. Applicability

A. The provisions of this Chapter are applicable to the following sources:

1. new or existing sulfuric acid production units;
2. new or existing sulfur recovery plants; and
3. all other single point sources that emit or have the potential to emit 5 tons per year or more of sulfur dioxide into the atmosphere.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1011 (June 2007).

§1503. Emission Limitations and Compliance

A. Sulfuric Acid Plants—New and Existing. The emissions of sulfur dioxide and acid mist from new sulfuric acid production units that commence construction or modification after August 17, 1971, shall be limited to that specified in 40 CFR 60.82 and 60.83, as incorporated by reference in LAC 33:III.Chapter 30, i.e., 4.0 pounds of SO₂/ton of 100 percent H₂SO₄ (2 kilograms/metric ton) and 0.15 pounds of sulfuric acid mist/ton of 100 percent H₂SO₄ (.075 kilograms/metric ton), respectively (three-hour averages). Emissions from existing units shall be limited as follows:

1. SO₂—not more than 2000 ppm by volume (three-hour average);
2. sulfuric acid mist—not more than 0.5 pounds/ton of 100 percent H₂SO₄ (0.25 kilograms/metric ton) (three-hour average).

B. ...

C. All Other Sources—New and Existing. No person shall discharge gases from the subject sources that contain concentrations of SO₂ in excess of 2,000 parts per million (ppm) by volume at standard conditions (three-hour average), or any applicable Federal NSPS or NESHAP emission limitation, whichever is more stringent. Single point sources that emit or have the potential to emit less than 250 tons per year of sulfur compounds measured as sulfur dioxide may be exempted from the 2,000 ppm(v) limitation by the administrative authority.

D. Compliance

1. The methods listed in Table 4 or any such equivalent method as may be approved by the administrative authority* shall be used to determine compliance with the appropriate emission limitations set forth in Subsections A-C of this Section. These methods shall be used for the following:

- a. initial compliance determinations; and
- b. any additional compliance determinations as requested by the administrative authority.

2. Measurement equipment shall be periodically calibrated to comply with minimal American Bureau of Standards criteria.

3. The data collected from a sulfur dioxide continuous emission monitoring system (CEMS) may be used to determine initial compliance with the sulfur dioxide emission limitations of this Section.

4. As used in this Section a *three-hour average* means the average emissions for any three consecutive one-hour periods (each commencing on the hour), provided that the number of three-hour periods during which the SO₂ limitation is exceeded is not greater than the number of one-hour periods during which the SO₂ limitation is exceeded.

| Table 4 | |
|---|---|
| Emissions—Methods of Contaminant Measurement | |
| Emission | Analytical Method |
| Particulate | 1. Methods 1, 2, 3, 4, 5 (40 CFR Part 60, Appendix A, as incorporated by reference at LAC 33:III.3003) or §60.8 of 40 CFR Part 60 as incorporated by reference at LAC 33:III.3003. |
| Sulfur Oxides | 1. Seidman, Analytical Chemistry Volume 30, page 1680 (1958), "Determination of Sulfur Oxides in Stack Gases." 2. Shell Development Company method for the Determination of Sulfur Dioxide and Sulfur Trioxide PHS 999 AP-13 Appendix B, pages 85-87, "Atmospheric Emissions Sulfuric Acid Manufacturing Processes." 3. Reich Test for Sulfur Dioxide, "Atmospheric Emissions from Sulfuric Acid Manufacturing Process" PHS 999 AP-13 Appendix B, pages 76-80. 4. The Modified Monsanto Company Method, "Atmospheric Emissions from Sulfuric Acid Manufacturing Process" PHS 999 AP-13, Appendix B, pages 61-67. 5. Test Methods 1, 2, 3, 4, 6C, and 8 (40 CFR Part 60, Appendix A, as incorporated by reference at LAC 33:III.3003), or §60.8 of 40 CFR Part 60 as incorporated by reference at LAC 33:III.3003. |
| Oxides of Nitrogen | 1. Test Methods 1, 2, 3, 4, and 7E (40 CFR Part 60, Appendix A, as incorporated by reference at LAC 33:III.3003), or §60.8 of 40 CFR Part 60 as incorporated by reference at LAC 33:III.3003. |
| Visible Emissions | 1. Method 9 (40 CFR Part 60, Appendix A, as incorporated by reference at LAC 33:III.3003). 2. Method 22 (40 CFR Part 60, Appendix A, as incorporated by reference at LAC 33:III.3003). |
| Total Fluoride | 1. Methods 1, 2, 3, 13A and 13B (40 CFR Part 60, Appendix A, as incorporated by reference at LAC 33:III.3003). |
| Total Reduced Sulfur (TRS) | 1. Method 16 (40 CFR Part 60, Appendix A or §60.8 of 40 CFR Part 60 as incorporated by reference at LAC 33:III.3003). 2. Coulometric titration by method specified in NCASI Atmospheric Quality Improvement Technical Bulletin Number 91 (January 1978). |
| Sulfuric Acid Mist | 1. Test methods 1, 2, 3, 4, 6, and 8 (40 CFR Part 60, Appendix A or §60.8 of 40 CFR Part 60 as incorporated by reference at LAC 33:III.3003). |

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by Office of Air Quality and Radiation Protection, Air Quality Division, LR 18:374 (April 1992), LR 22:1212 (December 1996), LR 23:1677 (December 1997), LR 24:1284 (July 1998), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1011 (June 2007).

§1507. Exceptions

A. Start-Up Provisions

1. A four-hour (continuous) start-up exemption from the emission limitations of LAC 33:III.1503.A will be authorized by the administrative authority for facilities not subject to 40 CFR 60.82 and 60.83, as incorporated by

reference in LAC 33:III.Chapter 30, that have been shut down.

a. A written report explaining the conditions and duration of the start-up and listing the steps necessary to remedy, prevent, and limit the excess emissions shall be submitted to the Office of Environmental Compliance, Emergency and Radiological Services Division, Single Point of Contact (SPOC), within seven calendar days of the occurrence.

b. The report shall be signed by a responsible official, who shall certify:

i. that the excess emissions were not the result of failure to operate, maintain, or repair equipment in a manner consistent with good engineering practice;

ii. that the excess emissions were not due to error resulting from careless operations;

iii. that the excess emissions were not the result of failure to follow written procedures;

iv. that actions were taken to minimize the duration and magnitude of the excess emissions; and

v. that no ambient air quality standard was jeopardized.

c. All necessary data required to support the certifying statements shall be recorded and retained on-site and made available to department personnel upon request.

2. ...

B. On-Line Operating Adjustments

1. A four-hour (continuous) exemption from emission limitations of LAC 33:III.1503.A will be extended by the administrative authority to facilities not subject to 40 CFR 60.82 and 60.83, as incorporated by reference in LAC 33:III.Chapter 30, where upsets have caused excessive emissions and on-line operating changes will eliminate a temporary condition.

a. A written report explaining the conditions and duration of the upset and listing the steps necessary to remedy, prevent, and limit the excess emissions shall be submitted to the Office of Environmental Compliance, Emergency and Radiological Services Division, SPOC, within seven calendar days of the occurrence.

b. The report shall be signed by a responsible official, who shall certify:

i. that the excess emissions were not the result of failure to operate, maintain, or repair equipment in a manner consistent with good engineering practice;

ii. that the excess emissions were not due to error resulting from careless operations;

iii. that the excess emissions were not the result of failure to follow written procedures;

iv. that actions were taken to minimize the duration and magnitude of the excess emissions; and

v. that no ambient air quality standard was jeopardized.

c. All necessary data required to support the certifying statements shall be recorded and retained on-site and made available to department personnel upon request.

2. ...

C. Bubble Concept. The administrative authority* may exempt a source from the emission limitations of LAC 33:III.1503 if the owner or operator demonstrates that a *bubble concept* will be applied as defined in LAC 33:III.111.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 18:375 (April 1992), LR 23:1678 (December 1997), LR 24:1284 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2451 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2439 (October 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1011 (June 2007).

§1511. Continuous Emissions Monitoring

A. Except as provided in Subsections C and D of this Section, the owner or operator of any facility subject to the sulfur dioxide emission limitations of this Chapter shall install, calibrate, maintain, and operate a measurement system or systems, installed in accordance with the manufacturers instructions, for continuously monitoring sulfur dioxide concentrations in the effluent of each process subject to this Chapter. *Continuous monitoring* is defined as sampling and recording of at least one measurement in each 15-minute period from the effluent of each affected process or the emission control system serving each affected process.

B. ...

C. As an alternative to continuous monitoring of sulfur dioxide emissions the administrative authority* may approve demonstration of compliance as follows.

1. For combustion units that burn fuel gas or refinery gas, calculate sulfur dioxide emissions by continuously monitoring the fuel hydrogen sulfide content and fuel consumption rate.

2. For any single point source that burns or decomposes sulfur-containing fuel and/or feedstock, calculate sulfur dioxide emissions by monitoring the fuel and/or feedstock consumption rate and determining input sulfur as follows.

a. For fuel supplied from a bulk storage tank, values for input sulfur shall be determined on each occasion that the fuel is transferred to the storage tank from any other source. Fuel consumption rates shall be monitored continuously.

b. For feedstock or any other method of supplying fuel, values for input sulfur shall be determined daily. Fuel consumption rates shall be monitored continuously.

3. As an alternative to Paragraphs C.1 and 2 of this Section, the owner or operator may develop custom schedules and methods for determination of sulfur dioxide emissions based on the design and operation of the emissions unit and characteristics of the feedstock or fuel supply. These custom schedules must be substantiated by data and approved by the administrative authority prior to implementation.

D. The administrative authority shall not require continuous monitoring for:

1. flares;

2. single point sources that have the potential to emit less than 100 tpy of sulfur dioxide;

3. single point sources identified in 40 CFR Part 51, Appendix P; and

4. single point sources subject to the provisions of 40 CFR Part 75—Continuous Emission Monitoring.

E. For sulfuric acid plants, the production rate of H₂SO₄ shall be monitored daily.

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 18:375 (April 1992), amended LR 22:1212 (December 1996), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1012 (June 2007).

§1513. Recordkeeping and Reporting

A. Except as provided in Subsections B-D of this Section, the owner or operator of any facility subject to the provisions of this Chapter shall record and retain at the site for at least two years the data required to demonstrate compliance with this Chapter. All emissions data shall be recorded in the units of the applicable standard using the averaging time of the applicable standard, as follows.

1. CEMS data shall be recorded continuously.
2. Initial and additional compliance determination data shall be recorded upon each occurrence. A report showing the results of any such test shall be submitted no later than 90 days after the completion of the test.
3. For sulfuric acid plants, the production rate of H₂SO₄ shall be recorded daily.

B. The owner or operator of any single point source approved for alternative emissions monitoring in accordance with LAC 33:III.1511.C shall record the appropriate data required to demonstrate compliance as follows.

1. For sources that burn fuel gas or refinery gas in multiple combustion units, maintain continuous records of the fuel hydrogen sulfide content and the fuel consumption rate.
2. For emissions units that burn or decompose sulfur-containing fuel and/or feedstock, maintain continuous records of the fuel and/or feedstock consumption rate and a record of the input sulfur at the following frequencies.
 - a. For fuel supplied from a bulk storage tank, values for input sulfur shall be recorded on each occasion that the fuel is transferred to the storage tank from any other source.
 - b. For feedstock or any other method of supplying fuel, values for input sulfur shall be recorded daily.
3. For an emissions unit with an approved custom schedule, the fuel and/or feedstock consumption rate and input sulfur shall be recorded according to the custom schedule approved by the administrative authority in accordance with LAC 33:III.1511.C.3.

C. The owner or operator of any emissions unit that is not subject to the emissions limitations of this Chapter shall record and retain at the site sufficient data to show annual potential sulfur dioxide emissions from the emissions unit.

D. Compliance with the recordkeeping requirements of 40 CFR Part 75—Continuous Emission Monitoring shall satisfy the recordkeeping provisions of this Section.

E. All compliance data shall be made available to a representative of the department or the U.S. EPA on request. When applicable, compliance data shall be reported to the department annually in accordance with LAC 33:III.918. In addition, quarterly reports of three-hour excess emissions and reports of emergency conditions in accordance with LAC 33:I.Chapter 39 shall be made.

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 18:376 (April 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:1671 (August 2004), amended by the

Office of the Secretary, Legal Affairs Division, LR 33:1013 (June 2007).

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0706#019

RULE

**Department of Environmental Quality
Office of the Secretary
Legal Affairs Division**

**Expedited Permit Processing Program
(LAC 33:I.1801, 1803, 1805, 1807, and 1809)(OS073)**

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 Office of the Secretary regulations, LAC 33:I.1801, 1803, 1805, 1807, and 1809 (Log #OS073).

This Rule provides for an expedited permit processing program and the implementation of the associated permitting fees authorized by Acts 586 and 779 of the 2006 Regular Session of the Louisiana Legislature. This program allows interested applicants who request such processing to reimburse the department for overtime costs incurred by department employees who work overtime to expedite an application for a permit, modification, license, registration, or variance. The statutes also allow the department to hire contractors to perform this work if deemed necessary. Many companies consider environmental permitting timelines when determining where to locate a proposed facility. Expedited permit processing allows the regulated community to act more quickly in response to market demands and conditions. Commencement of any necessary construction and operations may be authorized more expeditiously. This Rule promulgates the provisions of Emergency Rule OS073E, which implemented a pilot program for this service on July 31, 2006. The basis and rationale for this Rule are to shorten the permit processing time by allowing the department to offer paid overtime to employees to expedite the permit processing and recoup the costs of that overtime pay.

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 I. Office of the Secretary**

**Subpart 1. Departmental Administrative Procedures
Chapter 18. Expedited Permit Processing Program
§1801. Scope**

A. This Chapter establishes a program to expedite the processing of permits, modifications, licenses, registrations, or variances for environmental permit applicants who may request such services. Expedited processing of an application for a permit, modification, license, registration, or variance is an exercise of the discretion of the

administrative authority and is subject to the availability of resources needed in order to process the permit, modification, license, registration, or variance. Permit actions approved for expedited permit processing must meet all regulatory requirements, including required public comment periods and any required review by other agencies.

B. Eligibility

1. An application for an initial permit or permit modification necessary for new construction as required by the Environmental Quality Act or regulation is eligible for expedited permit processing.

2. An application for permit modification that does not result in new permanent jobs is eligible for expedited processing pursuant to the provisions of this Chapter if it is associated with new construction; includes increases in production that benefit the national, state, or local economy; or provides a direct benefit to the environment.

3. Applications for permit renewal and/or reconciliation will be considered for expedited processing pursuant to the provisions of this Chapter on a case-by-case basis.

4. Applications for permits, modifications, licenses, registrations, or variances under the Solid Waste and Hazardous Waste programs are not eligible for expedited permit processing.

5. A request for expedited permit processing submitted prior to submittal of the associated permit application will not be considered.

6. Requests for exemptions, letters of no objection, and other miscellaneous letters of response are not eligible for expedited permit processing.

C. To the extent practicable, requests proposing new construction and requests that will result in the creation of new permanent jobs will be given highest consideration.

D. Approval of a request for expedited permit processing in no way guarantees issuance of the permit action or issuance of the permit action by the date requested.

E. The department may deny a request for expedited permit processing for any reason, including but not limited to the following:

1. the applicant's failure to pay outstanding fees or penalties;
2. compliance history concerns regarding the applicant;
3. an infeasible date requested for permit action;
4. an insufficient maximum amount the applicant is willing to pay; or
5. insufficient workforce resources available to assign to the task or a request not in line with department priorities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014.5

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1013 (June 2007).

§1803. Procedures

A. Requests for expedited permit processing shall be submitted using the approved form. The approved form is available on the official website for the department. Hard copies may be obtained from the Office of Environmental Services, Environmental Assistance Division.

B. Within 10 working days after receipt of a request for expedited processing of any permit, modification, license, registration, or variance, the administrative authority shall

issue a decision to grant or deny the expedited processing request.

C. Permit Applications. The following are additional permit application requirements for facilities requesting expedited permit processing.

1. If requested by the department, the applicant shall submit permit application information electronically using the Air Permit Data Upload (APDU) system or any other electronic data submittal program provided by the department.

2. Prior to submittal of a permit application for a new major source, a new synthetic minor source, or a major modification of an existing source, a technical meeting with a representative of the department is recommended to review and discuss the proposed application.

D. Requests for Additional Information

1. If at any time during the review process of an application the administrative authority determines that additional information is necessary, the administrative authority shall notify the applicant and require a response from the applicant within a specified time.

2. The applicant shall respond to the request for additional information within the time specified by the administrative authority. Such a response shall contain all information required by the administrative authority.

3. The administrative authority may cease expedited processing of an application for a permit, modification, license, registration, or variance in accordance with the provisions of this Chapter if the applicant fails to supply the requested additional information by the specified time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014.5.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1014 (June 2007).

§1805. Fees

A. In addition to the fees charged pursuant to R.S. 30:2014, a fee shall be charged for each application for a permit, modification, license, registration, or variance that is processed on an expedited basis in accordance with the provisions of this Chapter.

1. An appropriate fee shall be computed based on the maximum per hour overtime salary, including associated related benefits, of the civil service employee of the department who performs the work.

2. The fee shall be computed by multiplying the salary figure from Paragraph A.1 of this Section by every overtime hour or portion thereof that a department employee or contractor works on expedited processing of the application for a permit, modification, license, registration, or variance.

3. The applicant may request that the expedited permit processing fee not exceed a maximum amount. If such a maximum amount is established, the number of overtime hours a department employee or contractor works processing the application for a permit, modification, license, registration, or variance shall be limited accordingly. If further processing of the application is required, the department's continued review will not follow the provisions of this Chapter, and the request will no longer be handled on an expedited basis, unless the applicant agrees in writing to pay the expedited fees required to complete the expedited processing of the permit action.

B. In the event that the administrative authority ceases processing an application for a permit, modification, license, registration, or variance in accordance with LAC 33:I.1803.D.3 or Paragraph A.3 of this Section, a fee will be charged for every overtime hour or portion thereof that a department employee or contractor worked on expedited processing of the subject application for a permit, modification, license, registration, or variance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014.5 and 6.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1014 (June 2007).

§1807. Invoicing and Failure to Pay

A. An invoice for the expedited permit processing fee shall be transmitted to the applicant after the administrative authority has made a decision to grant or deny the permit, modification, license, registration, or variance.

B. If the administrative authority has ceased processing the permit application in accordance with LAC 33:I.1803.D.3 or 1805.A.3, an invoice for the appropriate expedited permit processing fee shall be transmitted to the applicant.

C. Failure to pay the expedited permit processing fee by the due date specified on the invoice constitutes a violation of these regulations and shall subject the applicant to relevant enforcement action under the Louisiana Environmental Quality Act including, but not limited to, revocation or suspension of the permit, modification, license, registration, or variance.

D. A permit appeal, whether by the applicant or a third party, shall not stay the requirement to pay the expedited permit processing fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014.5 and 6.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1015 (June 2007).

§1809. Public Notice and Availability of Records

A. Requirement to Provide Public Notice. The department shall provide notice of each request for expedited processing of an application for a permit, modification, license, registration, or variance that is processed pursuant to the provisions of this Chapter.

1. The notice of expedited permit processing shall be provided on the official website for the department.

2. For draft or proposed permit actions subject to public notice requirements under other regulations or program requirements, such public notice shall indicate that the draft or proposed permit was processed under the expedited permit processing provisions of this Chapter.

B. Contents of the Notice

1. The notice on the official website for the department shall contain the name of the applicant/permittee, the agency interest number, the parish in which the facility is physically located, the environmental medium involved, the date the request for expedited processing was received, and the date of the decision to approve or deny the request for expedited processing.

2. For draft or proposed permit actions subject to public notice requirements under other regulations or program requirements, in addition to such requirements, the public notice shall contain a statement that the draft or proposed permit was processed under the expedited permit processing provisions of this Chapter.

C. Availability of Records. All recorded information concerning a request for expedited processing (completed permit application form, fact sheet or statement of basis, draft and proposed permits, or any other public document) not classified as confidential information under R.S. 30:2030(A) or 30:2074(D) or not designated confidential in accordance with applicable regulations shall be made available to the public for inspection and copying in accordance with the Public Records Act, R.S. 44:1 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014.5.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1015 (June 2007).

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0706#021

RULE

Department of Environmental Quality Office of the Secretary Legal Affairs Division

Murphy Exploration and Production Delisting
(LAC 33:V.4999)(HW096P)

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.4999.Appendix E (Log #HW096P).

Murphy Exploration and Production (Murphy) is petitioning to exclude from the hazardous waste regulations (delist) approximately 6,120 tons of incinerator ash generated and used as fill in 1986 and 1987. This is a one-time delisting that applies to the particular ash (and to any contaminated media associated therewith) used as fill in the Rim Tide barge slip located on a 1.83 acre tract of land near Amelia, Louisiana. The purpose of this delisting petition is to facilitate the excavation and offsite disposal of the ash and any associated contaminated media. The delisting program is regulated by LAC 33:V.105, which includes a formal rulemaking process. The applicants who wish to remove a waste from the list of hazardous wastes must submit a petition and satisfy all requirements of LAC 33:V.105. The department has reviewed Murphy's petition and found that it satisfies the delisting requirements in LAC 33:V.105.M. The department used the Delisting Risk Assessment Software (DRAS) in the evaluation of the impact of the petitioned waste on human health and the environment. The department's action to grant the petition is based on an evaluation of waste-specific information provided by the

petitioner. Based on the information submitted by Murphy, the results of the analytical data, and the results of the DRAS, the department has determined that the nature of this material does not warrant retaining the material as a hazardous waste. The basis and rationale for this rule are to grant the delisting petition based on an evaluation of waste-specific information submitted by Murphy Exploration and Production.

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 V. Hazardous Waste and Hazardous Materials

**Subpart 1. Department of Environmental Quality—
Hazardous Waste**

Chapter 49. Lists of Hazardous Wastes

§4999. Appendices—Appendix A, B, C, D, and E

Appendix A.-Appendix D. ...

Appendix E. Wastes Excluded under LAC 33:V.105.M

A. - B.3.b. ...

| |
|---|
| Table 1 - Wastes Excluded |
| [See Prior Text in Dupont Dow Elastomers, LLC, LaPlace, LA – Syngenta Crop Protection, Inc., St. Gabriel, LA, (4)(A)] |

| |
|--|
| Table 1 - Wastes Excluded |
| Murphy Exploration and Production Company, Amelia, LA |
| Hazardous waste incinerator ash was generated by the combustion of hazardous wastes and nonhazardous wastes in a rotary kiln incinerator at Marine Shale Processors in Amelia, Louisiana. In 1986 and 1987, this ash was used as fill material for the Rim Tide barge slip area at Murphy Exploration and Production Company (Murphy) in Amelia, Louisiana. For the purpose of this exclusion, ash used as fill material by Murphy includes all hazardous waste codes listed in LAC 33:V.4901. This is a one-time exclusion for a maximum volume of 6,200 cubic yards of ash subsequent to its excavation from the Rim Tide barge slip area at Murphy for the purpose of transportation and disposal in a Subtitle D landfill after June 20, 2007. |

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), amended by the Office of Environmental Assessment, LR 30:2464 (November 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 33:445 (March 2007), LR 33:825 (May 2007), LR 33:1016 (June 2007).

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0706#020

RULE

**Department of Environmental Quality
Office of the Secretary
Legal Affairs Division**

National Source Tracking System
(LAC 33:XV.102, 361, and 399)(RP044ft)

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.102, 361, and 399 (Log #RP044ft).

This rule is identical to federal regulations found in 10 CFR Parts 20 and 32, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3550 or Box 4302, Baton Rouge, LA 70821-4302. 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 update the state radiation regulations to coincide with changes in the federal regulations as required by the Agreement State program. Amendments to 10 CFR Parts 20 and 32 implement the National Source Tracking System (NSTS). As an Agreement State, Louisiana has licensees that are authorized to manufacture sources subject to tracking in the NSTS. Louisiana needs to implement the appropriate actions in the time frame mandated by the Nuclear Regulatory Commission for the tracking of sources. The basis and rationale for this rule are to mirror the federal regulations and maintain an adequate Agreement State program.

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 1. General Provisions

§102. Definitions and Abbreviations

As used in these regulations, these terms have the definitions set forth below. Additional definitions used only in a certain chapter may be found in that chapter.

* * *

Nationally Tracked Source—a sealed source containing a quantity equal to or greater than the Category 1 or Category 2 levels of any radioactive material listed in LAC 33:XV.399.Appendix G. In this context a sealed source is defined as radioactive material that is sealed in a capsule or closely bonded, in a solid form, and that is not exempt from regulatory control. It does not mean material encapsulated solely for disposal, or nuclear material contained in any fuel

assembly, subassembly, fuel rod, or fuel pellet. Category 1 *nationally tracked sources* are those containing radioactive material at a quantity equal to or greater than the Category 1 threshold. Category 2 *nationally tracked sources* are those containing radioactive material at a quantity equal to or greater than the Category 2 threshold but less than the Category 1 threshold.

* * *

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 Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), LR 19:1421 (November 1993), LR 20:650 (June 1994), LR 22:967 (October 1996), LR 24:2089 (November 1998), repromulgated LR 24:2242 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2563 (November 2000), LR 26:2767 (December 2000), LR 30:1171, 1188 (June 2004), amended by the Office of Environmental Assessment, LR 31:44 (January 2005), LR 31:1064 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:811 (May 2006), LR 32:1853 (October 2006), LR 33:1016 (June 2007).

Chapter 3. Licensing of Radioactive Material

Subchapter D. Specific Licenses

§361. Registration of Product Information

A. - F.2. ...

G. Serialization of Nationally Tracked Sources. Each licensee who manufactures a nationally tracked source after February 6, 2007, shall assign a unique serial number to each nationally tracked source. Serial numbers must be composed only of alpha-numeric characters.

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, LR 31:45 (January 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2528 (October 2005), LR 33:1017 (June 2007).

Subchapter Z. Appendices

§399. Schedules A and B, and Appendices A, B, C, D, E, F, and G

Schedule A. - Appendix F, C.5. ...

Appendix G

Nationally Tracked Source Thresholds

The terabecquerel (TBq) values given in this table are the regulatory standard. The curie (Ci) values specified are obtained by converting the TBq value. The Ci values are provided for practical usefulness only and are rounded after conversion.

| Nationally Tracked Source Thresholds | | | | |
|--------------------------------------|------------|--------|------------|-----|
| Radioactive Material | Category 1 | | Category 2 | |
| | TBq | Ci | TBq | Ci |
| Actinium-227 | 20 | 540 | 0.2 | 5.4 |
| Americium-241 | 60 | 1,600 | 0.6 | 16 |
| Americium-241/Be | 60 | 1,600 | 0.6 | 16 |
| Californium-252 | 20 | 540 | 0.2 | 5.4 |
| Cobalt-60 | 30 | 810 | 0.3 | 8.1 |
| Curium-244 | 50 | 1,400 | 0.5 | 14 |
| Cesium-137 | 100 | 2,700 | 1 | 27 |
| Gadolinium-153 | 1,000 | 27,000 | 10 | 270 |
| Iridium-192 | 80 | 2,200 | 0.8 | 22 |
| Plutonium-238 | 60 | 1,600 | 0.6 | 16 |
| Plutonium-239/Be | 60 | 1,600 | 0.6 | 16 |

| Nationally Tracked Source Thresholds | | | | |
|--------------------------------------|------------|-----------|------------|--------|
| Radioactive Material | Category 1 | | Category 2 | |
| | TBq | Ci | TBq | Ci |
| Polonium-210 | 60 | 1,600 | 0.6 | 16 |
| Promethium-147 | 40,000 | 1,100,000 | 400 | 11,000 |
| Radium-226 | 40 | 1,100 | 0.4 | 11 |
| Selenium-75 | 200 | 5,400 | 2 | 54 |
| Strontium-90 | 1,000 | 27,000 | 10 | 270 |
| Thorium-228 | 20 | 540 | 0.2 | 5.4 |
| Thorium-229 | 20 | 540 | 0.2 | 5.4 |
| Thulium-170 | 20,000 | 540,000 | 200 | 5,400 |
| Ytterbium-169 | 300 | 8,100 | 3 | 81 |

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 18:34 (January 1992), LR 20:180 (February 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2574 (November 2000), LR 27:1228 (August 2001), amended by the Office of Environmental Assessment, LR 31:46 (January 2005), LR 31:1580 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2528 (October 2005), LR 32:820 (May 2006), LR 32:1853 (October 2006), LR 33:449 (March 2007), LR 33:1017 (June 2007).

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0706#022

RULE

Department of Environmental Quality Office of the Secretary Legal Affairs Division

Solid Waste Regulations Reorganization
(LAC 33:VII.Chapters 1-30)(SW037)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Solid Waste regulations, LAC 33:VII.Subpart 1 (Log #SW037).

This Rule amends and completely replaces the Solid Waste regulations in LAC 33:VII.Subpart 1. This action is being taken to: reorganize the regulations in a more user-friendly manner; correct errors in text; clarify technical requirements for all solid waste facilities; establish a new category for non-processing transfer stations; incorporate geology and groundwater standards currently required by the department; establish emergency response requirements for Type II and Type III facilities; provide more flexibility regarding characterization of subsurface geology; repeal the beneficial use regulations in Chapter 11, and replace with new language that will not require permitting; and update financial assurance mechanisms for operation, closure, and post-closure care of solid waste management facilities. These amendments are being done in response to complaints from the regulated community and will attempt to make the regulations more user-friendly.

These regulations will be effective for all new submittals, including, but not limited to, new permit applications, permit modifications, and permit renewals, except that the

numbering system of individual sections of permit modifications, permit renewals, and permit applications submitted prior to the effective date of these regulations shall not be affected. Unless otherwise directed in writing by the department, applicants that have submitted complete applications or requests for permits, modifications, or renewals prior to the effective date of these regulations will not be required to revise their previously submitted applications or requests to address these regulations. The basis and rationale for this Rule are to be responsive to the regulated community, to bring technical standards up-to-date, and to ensure the protection of human health and the environment.

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 VII. Solid Waste

Subpart 1. Solid Waste Regulations

Chapter 1. General Provisions and Definitions

§101. Scope and Purpose

A. The Louisiana Legislature recognizes that the safety and welfare of citizens "require efficient and reasonable regulation of solid waste disposal practices as well as a coordinated, statewide resource recovery and management program" (R.S. 30:2152). Therefore, the Department of Environmental Quality has formulated these rules and regulations to:

1. establish standards governing the storage, collection, processing, recovery and reuse, and disposal of solid waste;

2. implement a management program that will protect the air, groundwater, and surface water, and the environment from pollution from solid wastes and thus eliminate the potential threat to human health from such pollution;

3. encourage both citizens and industry to reduce the amount of waste developed and generated in the state.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2514 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1018 (June 2007).

§103. Authority

A. The Louisiana Environmental Quality Act (R.S. 30:2001 et seq.) established the enforcement authority and procedures for carrying out the purposes of the Act. These rules and regulations were developed under the authority of the secretary of the Department of Environmental Quality, as mandated by the Louisiana Solid Waste Management and Resource Recovery Law (R.S. 30:2151 et seq.). The Louisiana Solid Waste Operator Certification and Training Program statutes (R.S. 37:3151 et seq.) created the Louisiana Solid Waste Operator Certification and Training Program. The principal domicile of the board shall be that of the Department of Environmental Quality.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1018 (June 2007).

§105. Repeals

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), repealed by the Office of the Secretary, Legal Affairs Division, LR 33:1018 (June 2007).

§107. Effective Date

A. These rules and regulations shall be effective on June 20, 2007. Unless otherwise directed in writing by the department, applicants that have submitted permit applications or requests for modifications or renewals prior to the effective date of these rules and regulations shall not be required to revise their previously submitted applications or requests to address these rules and regulations. The administrative authority reserves the right to require revisions (limited to numbering and formatting) to previously submitted permit applications, modification requests, or renewals that have not received final approval by the department.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1018 (June 2007).

§109. Severability

A. If any provision of these rules and regulations or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act and these regulations that can be given effect without the invalid provision or application, and to this end provisions of these rules and regulations are declared to be severable.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), repromulgated by the Office of the Secretary, Legal Affairs Division, LR 33:1018 (June 2007).

§110. Confidentiality [Formerly §309]

A. Provisions for confidential information may be found in LAC 33:I.Chapter 5.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, LR 22:344 (May 1996), repromulgated by the Office of the Secretary, Legal Affairs Division, LR 33:1018 (June 2007).

§111. Review of the Rules and Regulations

A. The department shall review these rules and regulations periodically for their effectiveness in meeting the purposes set forth in LAC 33:VII.101.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2514 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1018 (June 2007).

§112. Division of Responsibility
[Formerly §317]

A. The administrative authority is responsible for the following:

1. identifying solid waste processing and disposal facilities;
2. classifying such facilities for closure or upgrade;
3. performing all necessary regulatory operations, including:
 - a. operating the permit system;
 - b. surveillance and monitoring to determine facility compliance; and
 - c. initiating and processing enforcement actions when necessary to meet the purposes of these regulations;
4. soliciting, administering, and distributing federal, state, and other funds; and
5. entering into contracts as necessary to carry out the mandates of the Act.

B. Municipalities, parishes, and regional commissions are responsible for the following:

1. planning and operating necessary collection facilities and collection systems, including recycling programs, and delivering solid waste to permitted processing or disposal facilities;
2. planning and operating permitted processing and/or disposal facilities while cooperating with the department, or other entities, to implement regional management systems;
3. providing necessary financial support for the regional management systems through fees or other means;
4. administering supplementary funds received from federal or state sources through the administrative authority; and
5. entering into contracts when necessary to provide for maximum efficiency of the program.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1019 (June 2007).

§113. Public Information Service

A. Responses to Suggestions and Complaints. The department shall respond to complaints and suggestions and disseminate all pertinent information concerning solid waste. Information shall be disseminated by letter, electronic, or telephone communication in response to direct inquiries and through a departmental bulletin issued periodically that will include lists of permits, enforcement actions, and similar information of general interest, if such a bulletin is available.

B. Public Hearings. A transcript of all discussions, presentations, and comments submitted shall be prepared after each hearing and made available to all who request it, in accordance with R.S. 44:1, et seq.

C. Mailing List. The department shall maintain a mailing list of groups or individuals interested in public hearings and

other such activities of the Office of Environmental Services, Waste Permits Division.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2514 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2485 (October 2005), LR 33:1019 (June 2007).

§114. Assignment and Reassignment of Responsibilities
[Formerly §319]

A. Assignment of New Responsibilities. The administrative authority may assign to local authorities new responsibilities required to implement elements of the program not assigned in LAC 33:VII.112.B.

B. Reassignment of Responsibilities. The administrative authority may reassign responsibilities within the department or to local authorities in LAC 33:VII.112.B as may be deemed necessary to operate the program more effectively.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2517 (November 2000), repromulgated by Office of the Secretary, Legal Affairs Division, LR 33:1019 (June 2007).

§115. Definitions

A. For all purposes of these rules and regulations, the terms defined in this Section shall have the following meanings, unless the context of use clearly indicates otherwise.

100-Year Flood—a flood that has a one percent or greater chance of occurring in any year, or a flood of a magnitude equaled or exceeded once in 100 years on average over a significantly long period.

Abandonment—to leave behind or desert solid waste at a location without adhering to the proper disposal or processing standards required by these regulations. Storage of solid waste in accordance with the storage standards provided by these regulations does not constitute abandonment.

Access Road—a passageway for vehicles leading from the entrance of a facility to each unit of the facility.

Act—the Louisiana Environmental Quality Act (R.S. 30:2001 et seq.).

Administrative Authority—the secretary of the Department of Environmental Quality or his designee or the appropriate assistant secretary or his designee.

Agricultural Waste—nonhazardous waste resulting from the production and processing of agricultural products, including manures, prunings, and crop residues. Some examples of *agricultural wastes* are included in LAC 33:VII.3015.Appendix H. This term does not include solid wastes defined as industrial solid waste in this Section.

Air Curtain Destructor—a device that forcefully projects a curtain of air across an open chamber or open pit in which combustion occurs. Destructors of that type can be constructed above or below ground and with or without refractory walls or floor. *Air curtain destructors* are also

referred to as bit burners, trench burners, and air curtain incinerators.

Animal Feed—any crop, such as pasture crops, forage, and grain, grown for consumption by animals.

Applicant—any person who intends to be a standard permit-holder for a solid waste processing and/or disposal facility and who has submitted a permit application to the Department of Environmental Quality.

Aquifer—a continuous geologic formation, group of formations, or part of a formation that contains enough saturated permeable materials to yield significant quantities of water to wells or springs. For the purposes of these regulations, a *significant quantity of water* is enough water to yield a groundwater sample within 24 hours after purging a monitoring well.

Areas Susceptible to Mass Movement—those areas of influence (i.e., areas characterized as having an active or substantial possibility of mass movement) where the movement of earth material at, beneath, or adjacent to the facility, because of natural or man-induced events, results in the downslope transport of soil and rock material by means of gravitational influence. Areas of mass movement include, but are not limited to, landslides, avalanches, debris slides and flows, soil fluctuation, block sliding, and rock fall.

Asbestos-Containing Waste—regulated asbestos-containing material (RACM), as defined in LAC 33:III.5151.B, and/or non-RACM (asbestos-containing material that is not RACM) that is discarded.

Assessment Well—see Monitoring Well.

Assets—all existing and all probable future economic benefits obtained or controlled by a particular entity.

Authority—repealed.

Autoclave—steam sterilization at a temperature of at least 250°F and a pressure of at least 15 pounds per square inch for at least 30 minutes. Longer times are required depending on the amount of waste, the presence of water, and the type of container used. Alternate patterns of temperature, pressure, and time may be used if compatible with the sterilization equipment being used and demonstrably sufficient to kill disease-causing microorganisms.

Background Soil pH—the pH of unimpacted soil in the vicinity of the solid waste facility before the addition of substances that alter the hydrogen-ion concentration (see *Soil pH*).

Bailing—a method of obtaining samples of water from a groundwater monitoring well by lowering and raising a weighted bottle, capped length of pipe, or similar device.

Baler—a facility that mechanically compacts and binds, or wraps, a solid waste into bundles, called bales, for convenient handling, storage, and shipping.

Beneficial Use—the use of waste material for some profitable purpose (e.g., incorporating sludge into soil to amend the soil). Avoidance of processing or disposal cost alone does not constitute beneficial use.

Board of Certification and Training—a board for the certification and training of operators of systems or facilities for the disposal of commercial and residential solid waste (established by R.S. 37:3151 et seq.).

Cation-Exchange Capacity—repealed.

Clean Closure—the act of closing a facility whereby all solid waste is removed, including contamination that results from solid waste placement.

Closure—the act of securing a facility that has been used to process, store, or dispose of solid waste in a manner that minimizes harm to the public and the environment.

Closure Plan—a plan for closure and/or post-closure of a facility prepared in accordance with the requirements of LAC 33:VII.Subpart 1.

Coastal Zone—the coastal waters and adjacent shorelands within the boundaries of the *coastal zone* established by the State and Local Coastal Resources Management Act of 1978 (R.S. 49:213.1-213.12).

Collect—to accumulate industrial solid waste or solid waste generated by more than one household or commercial establishment, or by a storage or processing facility.

Collection Facility—a facility, at which one or more containers are located, that is used to accumulate solid waste generated by and delivered by more than one household or commercial establishment for pickup by a transporter, including, but not limited to, facilities typically located in rural areas where garbage collection does not occur. This definition does not include containers that receive only solid waste generated on property that is contiguous with the property on which the container is located (e.g., containers located at and receiving solid waste only from a multiunit dwelling or a commercial establishment or an industrial establishment).

Commercial Establishment—a business, including its structures and property, that is involved in the exchange or distribution of goods or commodities, or that rents, leases, or sells space for such activities.

Commercial Solid Waste—all types of solid waste generated by stores, offices, restaurants, warehouses, and other nonmanufacturing activities, excluding residential and industrial solid wastes.

Compactor—a solid waste facility, other than collection and transportation vehicles, that reduces a solid waste volume by mechanical compaction to achieve a higher density.

Compost—a solid waste that has undergone biological decomposition of organic matter and has been stabilized using composting or similar technologies, to a degree that is beneficial to plant growth, and that is used, or sold for use, as a soil amendment, artificial topsoil, growing-medium amendment, or other similar uses.

Composting—a controlled process of degrading organic matter with microorganisms.

Composting Facility—a facility where organic matter is processed by natural or mechanical means to aid the microbial decomposition of the organic matter.

Construct—to build, erect, excavate, or form any portion of a solid waste facility.

Construction/Demolition (C&D) Debris—nonhazardous waste generally considered not water-soluble that is produced in the process of construction, remodeling, repair, renovation, or demolition of structures, including buildings of all types (both residential and nonresidential). Solid waste that is not *C&D debris* (even if resulting from the construction, remodeling, repair, renovation, or demolition

of structures) includes, but is not limited to, *regulated asbestos-containing material (RACM)* as defined in LAC 33:III.5151.B, white goods, creosote-treated lumber, and any other item not an integral part of the structure.

Contamination (Environmental)—the degradation of naturally occurring water, air, or soil quality either directly or indirectly as a result of human activities.

Contamination (Solid Waste)—the admixture of any solid waste with any amount of hazardous waste, or any other type of waste not meeting the definition of solid waste.

Contingency Plan—an organized, planned, coordinated course of action to be followed in the event of a fire, explosion, natural disaster, or discharge or release of waste into the environment that could endanger human health or the environment.

Contour Lines—lines connecting points of equal elevation used on topographic or other maps.

Cover Material—soil, or other suitable material approved by the administrative authority, applied on the top and side slopes of disposed solid waste to control vectors, gases, erosion, fires, and infiltration of precipitation; to support vegetation; to provide trafficability; or to ensure an aesthetic appearance.

Crops for Human Consumption—crops grown for human consumption that are not processed to minimize pathogens before they are distributed to consumers.

Curing Area—an area where organic material that has undergone the rapid initial stage of composting is further stabilized into a humus-like material.

Current Assets—cash, other assets, or resources commonly identified as those which are reasonably expected to be realized in cash, sold, or consumed during the normal operating cycle of the business.

Current Liabilities—obligations whose liquidation is reasonably expected to require the use of existing resources, properly classifiable as current assets, or the creation of other current liabilities.

Daily Cover—cover material applied at the end of the operating day to a unit, the working face of a unit, or a facility.

Department—the Department of Environmental Quality as created by R.S. 30:2001 et seq.

Disease Vector—animals such as rodents, and fleas, flies, mosquitoes, and other arthropods, that are capable of transmitting diseases to humans.

Displacement—the relative movement of any two sides of a fault measured in any direction.

Disposal—the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste on or into any land or water so that such solid waste, or any constituent thereof, may have the potential for entering the environment or being emitted into the air or discharged into any waters of Louisiana. Abandonment of solid waste, whether or not it comes into contact with land or water, is also considered *disposal*.

Ditch—an earthen trench or excavation principally used to convey wastewaters without regard to whether solids settling or treatment of wastewater occurs therein.

Emergency Exemption—a special authorization issued to a person by the administrative authority that allows freedom from obligation to these regulations or any portion

thereof for a specified period of time, owing to emergencies such as strikes or acts of God.

EPA—the U.S. Environmental Protection Agency.

Estimated Life of Facility—the length of time a solid waste facility is projected to be capable of accepting wastes, based on its current permit or permit application.

Exemption—a special authorization issued to a person by the administrative authority that allows freedom from obligation to these regulations or a portion thereof.

Existing Facility—any *facility*, as defined in this Subsection, that receives solid waste or that exists or is being constructed on February 20, 1993, that does or will store, process, or dispose of solid wastes. (Facilities closed prior to January 20, 1981, or facilities that have completed the closure/post-closure requirements prior to February 20, 1993, are not considered *existing facilities*.)

Existing Operation—any solid waste operation that manages, collects, stores, processes, or receives solid waste that exists or that is being constructed on February 20, 1993. (Operations closed prior to January 20, 1981, or operations that have completed the closure and/or post-closure requirements prior to February 20, 1993, are not considered existing operations.)

Exploration and Production Waste (E&P Waste)—drilling wastes, salt water, and other wastes that are associated with the exploration, development, or production of crude oil or natural gas wells and that are not regulated by the provisions of, and are therefore excluded from, the Louisiana Hazardous Waste Regulations and the Federal Resource Conservation and Recovery Act Subtitle C, as amended.

Facility—actual land and associated appurtenances used for storage, processing, and/or disposal of solid wastes, but possibly consisting of one or more units. (Any earthen ditches leading to or from a unit of a facility and that receive solid waste are considered part of the facility to which they connect, except for ditches lined with materials capable of preventing groundwater contamination. The term *facility* does not necessarily mean an entire industrial manufacturing plant.)

Fault—a fracture or a zone of fractures in any material along which strata on one side have been displaced with respect to those on the other side.

Final Cover—cover material that is applied to minimize the infiltration of precipitation in a facility and revegetated to control erosion.

Final Grade—the maximum elevation allowed by the permit at any given time.

Flood Plain—the lowland and relatively flat areas adjoining inland and coastal waters, including flood-prone areas of offshore islands, that are inundated by the 100-year flood.

Food-Chain Crops—crops grown for human consumption; tobacco; and crops grown to feed animals that are consumed by humans.

Freeboard—the vertical distance between the lowest point of the top of a facility levee and the surface of the liquid waste contained therein.

Freshwater Aquifer—an aquifer containing water with quantities of total dissolved solids of less than 10,000 mg/L that is capable of yielding usable quantities of groundwater

to drinking-water wells, industrial pumps, springs, or streams.

Friable Asbestos Waste—Repealed.

Garbage—solid waste that includes animal and vegetable matter from the handling, preparation, cooking, and serving of foods (including grease trap waste), but that does not include industrial solid waste.

Generator—any person whose act or process produces solid waste as defined in these regulations.

Geotechnical Borehole—an exploratory borehole drilled, augered, bored, or cored to obtain soil samples to be analyzed for chemical and/or physical properties.

Groundwater—water located beneath the ground surface or below a surface water body in a saturated zone or stratum.

Hazardous Waste—waste identified as hazardous in the current Louisiana hazardous waste regulations (LAC 33:V.Subpart 1) and/or by the federal government under the Resource Conservation and Recovery Act and subsequent amendments.

Hazardous Waste Determination—the process performed in accordance with LAC 33:V.1103.

Holocene—the most recent epoch of the Quaternary period, extending from the end of the Pleistocene Epoch, i.e., 10,000 years ago, to the present.

Implement—to carry out, accomplish, and ensure actual fulfillment by specific means or by providing instruments or means of accomplishment.

Implementation Schedule—a timetable for completing a predetermined implementation plan.

Impoundment—see Surface Impoundment.

Inactive (or Abandoned) Facility—a solid waste storage, processing, or disposal facility that no longer receives solid waste and has not been closed in accordance with Louisiana Solid Waste Regulations.

Incinerator—any enclosed device using controlled-flame combustion that neither meets the criteria for classification as a boiler nor is listed as an industrial furnace, and is not a boiler or an industrial furnace as defined in LAC 33:V.109.

Incinerator Ash—residual solid waste that has been received, thermally oxidized, and/or decomposed by an incinerator.

Incinerator Waste-Handling Facility—a facility that processes solid waste which has been received, thermally oxidized, and/or decomposed by an incinerator.

Incorporation into Soil—the injection of solid waste beneath the surface of soil, or the mixing of solid waste with the surface soil.

Industrial Establishment—a business, including its structures and property, that is involved in the production or manufacture of goods or commodities.

Industrial Solid Waste—solid waste generated by a manufacturing, industrial, or mining process, or that is contaminated by solid waste generated by such a process. Such waste may include, but is not limited to, waste resulting from the following manufacturing processes: electric power generation; fertilizer/agricultural chemicals; food and related products; byproducts; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper

industry; rubber and miscellaneous plastic products; stone, glass, clay, and concrete products; textile manufacturing; and transportation equipment. This term does not include hazardous waste regulated under the Louisiana hazardous waste regulations or under federal law, or waste that is subject to regulation under the Office of Conservation's Statewide Order No. 29-B or by other agencies.

Industrial Solid Waste Facility—a facility for the processing, storage, and/or disposal of industrial solid waste.

Infectious Waste—waste that contains pathogens of sufficient virulence and quantity that exposure to it could result in an infectious disease in a susceptible host.

Initial Promulgation—the date on which the Louisiana Solid Waste Management Program first became effective, January 20, 1981.

Interim Compacted Cover—a minimum of 2 feet of compacted silty or sandy clay.

Interim Cover—a minimum of 1 foot of soil that is applied to a portion of a unit or a facility.

Isopach—a line drawn on a map through points of equal true thickness of a designated stratigraphic unit or group of stratigraphic units.

Isopach Map—a map that shows the thickness of a bed, formation, sill, or other tabular body throughout a geographic area by means of isopachs at regular intervals.

Karst Terrains—areas where karst topography, with its characteristic surface and subterranean features, is developed as the result of dissolution of limestone, dolomite, or other soluble rock. Characteristic physiographic features present in karst terrains include, but are not limited to, sinkholes, sinking streams, caves, large springs, and blind valleys.

Landfarm—a facility for the disposal of solid wastes in which wastes are applied to the land and/or incorporated into the soil for biological reduction and soil attenuation.

Landfill—a facility for the disposal of solid waste, other than landfarm(s) or surface impoundment(s), that disposes of solid waste by placing it on or into the land surface and usually also compacting and covering with suitable cover material to a depth and at a frequency sufficient to control disease vectors and odors and in a manner that protects human health and the environment.

Leachate—a liquid that has passed through or emerged from solid waste and may contain soluble, suspended, or miscible materials removed from such wastes.

Leak-Detection Well—a well used to determine the escape of liquids from a permitted solid waste facility.

Liabilities—probable future sacrifices of economic benefits arising from present obligations to transfer assets or provide services to other entities in the future as a result of past transactions or events.

Liner—layer or layers of material(s) beneath and on the sides of a solid waste disposal facility that are designed to restrict the escape of wastes or their constituents from the facility.

Liquid Waste—any waste material that is determined to contain free liquids as defined by Method 9095B (Paint Filter Liquids Test), as described in *Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods* (EPA Pub. SW-846).

Lithified Earth Material—all rock, including all naturally occurring and naturally formed aggregates or masses of minerals or small particles of older rock that

formed by crystallization of magma or by induration of loose sediments. This term does not include man-made materials, such as fill, concrete, and asphalt, or unconsolidated earth materials, soil, or regolith lying at or near the earth's surface.

Litter—exposed solid waste outside the active portion of a unit of a facility.

Lower-Explosive Limit—the lowest percent by volume of a mixture of explosive gases in the air that will propagate a flame at 25 degrees Centigrade and at atmospheric pressure.

Major Modification—any change in a site, facility, process or disposal method, or operation that substantially deviates from the permit or tends to substantially increase the impact of the site, facility, process or disposal method, or operation on the environment.

Mandatory Modification—any change in a site, facility, unit, process or disposal method, or operation that is required as a result of the solid waste regulations as promulgated on February 20, 1993.

Mandatory Modification Document—Repealed.

Manure—a solid waste composed of excreta of animals and any residual materials that have been used for bedding, sanitary, or feeding purposes for such animals.

Maximum Horizontal Acceleration in Lithified Earth Material—the maximum expected horizontal acceleration depicted on a seismic hazard map, with a 90 percent or greater probability that the acceleration will not be exceeded in 250 years, or the maximum expected horizontal acceleration based on a site-specific seismic risk assessment.

Mesophilic Stage—a biological stage in the composting process characterized by active bacteria which favor a moderate temperature range of 20 to 45 degrees Centigrade. It occurs later in the composting process than the thermophilic stage and is associated with a moderate rate of decomposition.

Minor Modification—any modification that does not meet the criteria for a major modification.

Modification—any change in a site, facility, unit, process or disposal method, or operation that deviates from the specifications in the permit. Routine or emergency maintenance that does not cause the facility to deviate from the specifications of the permit is not considered a *modification*. A change in the name of the facility does not constitute a *modification*.

Monitoring Well—any permanent cased hole that is drilled, augered, bored, cored, driven, washed, dug, jetted, or otherwise constructed to obtain hydrologic and water quality data, which is usually installed at or near a known or potential source of groundwater contamination to satisfy regulatory requirements for groundwater monitoring at regulated units.

Municipal Solid Waste Landfill or MSW Landfill—an entire disposal facility in a contiguous geographical space where residential solid waste and/or commercial solid waste is placed in or on land.

Net Worth—total assets minus total liabilities and equivalent to the person's equity.

NGVD—National Geodetic Vertical Datum.

Non-Processing Transfer Station—a solid waste facility where solid waste is transferred from collection vehicles to other vehicles for transportation without processing.

Observation Well—repealed.

Off-Site Location—land, and appurtenances thereon, used for processing and/or disposal of solid waste and not located on, or contiguous to, the property where the waste is generated. Two or more pieces of property that are geographically contiguous but divided by public or private rights-of-way are considered a single site.

Off-Site Processing/Disposal Area—a location for the processing and/or disposal of solid waste that is not on the generator's site.

On-Site Processing/Disposal Area—the land area and appurtenances thereon used for processing and/or disposal of solid waste on the same property or on geographically contiguous property, where waste is generated. Two or more pieces of property that are geographically contiguous but divided by public or private rights-of-way are considered a single site.

Open Burning—the combustion of solid waste without control of combustion air to maintain adequate temperature for efficient combustion, containment of the combustion reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion, and control of the emission of the combustion products.

Open Dump—a solid waste processing or disposal facility that has been issued a temporary permit and may not comply with the standards set by these regulations.

Operating Area—the portion of a facility that is actively involved in the storage, processing, or disposal of solid waste.

Operator—a person who is responsible for the overall operation of a facility or part of a facility.

Order Authorizing Commencement of Operations—a written authorization issued by the administrative authority after a permit-holder has completed all upgrading measures or completed construction measures, provided the required certification and a successful initial start-up inspection has been conducted by a representative of the department.

Owner—a person who owns a facility or part of a facility.

Parent Corporation—a corporation that directly owns at least 50 percent of the voting stock of the corporation that is the facility permit holder; the latter corporation is deemed a "subsidiary" of the *parent corporation*.

Permit—a written authorization issued by the administrative authority to a person for the construction, installation, modification, operation, closure, or post-closure of a certain facility used or intended to be used to process or dispose of solid waste in accordance with the Act, these regulations, and specified terms and conditions.

Permittee/Permit Holder—a person who is issued a permit and is responsible for meeting all conditions of the permit and these regulations at a facility.

Person—an individual, trust, firm, joint-stock company, corporation (including a government corporation), partnership, association, state, municipality, commission, political subdivision of the state, interstate body, or the federal government or any agency of the federal government.

pH—the logarithm of the reciprocal of hydrogen-ion concentration.

Pickup Station—repealed.

Piezometer—a nonpumping well used to measure the elevation of the water table or potentiometric surface.

Pilot Hole—a hole drilled with the intent to install casing and to produce water. It is usually of a smaller diameter than the proposed well and has to be reamed to a larger diameter for the installation of a casing and screen.

Poor Foundation Conditions—those areas where features exist that indicate that a natural or man-induced event may result in inadequate foundation support for the structural components of a facility.

Potable Water—water with bacteriological, physical, and chemical properties that make it suitable for human consumption.

Potentiometric Map—a map displaying contour lines of the potentiometric surface of a particular aquifer that may be used to determine groundwater gradient or direction of flow.

Potentiometric Surface—a surface that represents the level to which groundwater in a particular aquifer or permeable zone will rise in tightly cased wells, expressed with reference to a specified datum, such as the National Geodetic Vertical Datum (NGVD) (see also *Water Table*).

Practices—acts of storing, processing, collecting, transporting, or disposing of solid wastes.

Process—a method or technique, including recycling, recovering, compacting (but not including compacting that occurs solely within a transportation vehicle), composting, incinerating, shredding, baling, recovering resources, pyrolyzing, or any other method or technique that is designed to change the physical, chemical, or biological character or composition of a solid waste to render it safer for transport, reduced in volume, or amenable for recovery, storage, reshipment, or resale. The definition of *process* does not include treatment of wastewaters to meet state or federal wastewater discharge permit limits. Neither does the definition include activities of an industrial generator to simply separate wastes from the manufacturing process.

Promiscuous Dump—a solid waste disposal facility that has resulted from disposal activities of persons other than the landowner and whose operation is not permitted by the administrative authority.

Putrescible—susceptible to rapid decomposition by bacteria, fungi, or oxidation, creating noxious odors.

Reclassified Waste—a particular solid waste that the administrative authority has determined is no longer classified as a hazardous waste subject to regulation under the Louisiana hazardous waste regulations. Such wastes are "reclassified" as solid waste and are subject to regulation under these regulations.

Recovery Well—a well used to remove groundwater that has been determined to be contaminated.

Refuse-Derived Fuel—fuel processed from combustible solid waste.

Refuse-Derived Fuel Facility—a solid waste facility where fuel is processed from combustible solid waste.

Regulated Asbestos-Containing Material (RACM)—see definition in LAC 33:III.5151.B.

Residence—a single or multiunit dwelling, whether owned, leased, or rented by its occupant(s).

Residential Solid Waste—any solid waste (including garbage, trash, yard trash, and sludges from residential septic tanks and wastewater treatment facilities) derived from households (including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas).

Resource Recovery—the process by which solid waste that retains useful physical or chemical properties is reused or recycled for the same or other purposes, including uses as energy sources.

Runoff—any rainwater, leachate, or other liquid that drains from any part of a facility.

Run-On—any rainwater or other liquid that drains onto any part of a facility.

Salvaging—the controlled removal of waste materials for later use.

Sanitary Landfill—repealed.

Saturated Permeable Zone—the subsurface zone in which all interconnected openings are full of liquid.

Scavenging—unauthorized removal of solid waste materials from a disposal or processing facility.

Seismic-Impact Zone—an area with a 10 percent or greater probability that the maximum horizontal acceleration in lithified earth material, expressed as a percentage of the earth's gravitational pull (g), will exceed 0.10 g in 250 years.

Separation Facility—a Type III solid waste processing facility at which recyclables are separated from a nonputrescible solid waste stream for future use. The nonputrescible waste stream received by the separation facility shall not contain more than a de minimis amount of putrescible waste.

Septage—the contents of a septic tank, cesspool, or other individual sewage-treatment facility that receives domestic-sewage wastes.

Service Area—the geographic area serviced by a solid waste facility in which solid waste is generated, collected, and transported for delivery to that solid waste facility.

Sewage Sludge—sludge resulting from treatment of wastewater from publicly or privately owned or operated sewage-treatment plants.

Shredder—a solid waste facility that reduces the particle size of solid waste by grinding, milling, shredding, or rasping.

Site—the physical location, including land area and appurtenances, of an existing or proposed storage, processing, or disposal facility. A *site* may consist of a number of facilities, each subject to a permit to process or dispose of solid waste.

Sludge—residue produced by or precipitated from a treatment process.

Soil pH—a pH value obtained by sampling the soil to the depth of cultivation or solid waste placement. Test methodologies shall be in accordance with *Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods* (EPA Pub. SW-846).

Solid Waste—any garbage, refuse, or sludge from a waste treatment plant, water-supply treatment plant, or air pollution-control facility, and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities. *Solid waste* does not include solid or dissolved material in domestic sewage; solid or dissolved materials in irrigation-return flows or industrial discharges that are point sources subject to permits under R.S. 30:2074; source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 (68 Stat. 923 et seq.), as amended (42

U.S.C. Section 2011 et seq.); or hazardous waste subject to permits under R.S. 30:2171 et seq.

Solid Waste Management System—the entire process of collection, transportation, storage, processing, and disposal of solid waste by any person engaged in such process as a business or by any municipality, authority, trust, parish, or any combination thereof.

Spill—any unauthorized discharge or release of solid waste into or onto the land, air, or water.

Stabilized (Compost)—compost that has at least passed through the thermophilic stage and in which biological decomposition of the solid waste has occurred to a sufficient degree to allow beneficial use.

Standard Permit—written authorization issued by the administrative authority to an applicant who has successfully completed the permit application process for a processing or disposal facility.

Storage—the containment of solid waste on surfaces capable of preventing groundwater contamination in a means not constituting processing or disposal.

Structure Contour Map—a map displaying contour lines on a structural surface such as a stratum, formation boundary, or fault, in order to depict the subsurface configuration.

Surface Application—placement of solid waste onto a landfarm without incorporating it into the soil.

Surface Impoundment—a facility consisting of a natural topographic depression, manmade excavation, or diked area formed primarily of earthen materials (although it may be lined with man-made materials), designed to hold an accumulation of liquid waste and/or sludge, that is not an injection well, landfarm, landfill, or tank. Runoff and containment areas (ROCA) of landfarms are considered to be *surface impoundments*.

Surface-Recharge Zone—an area where a formation or formations that compose an aquifer intersect the land surface and receive water from percolation, precipitation, or surface-water bodies.

Tangible Net Worth—the tangible assets that remain after deducting liabilities; such assets would not include intangibles such as goodwill and rights to patents and royalties.

Tank—a stationary device designed to contain an accumulation of solid waste and constructed of nonearthen materials that provide structural support. The term *tank* does not include underground storage tanks as defined by the underground storage tank rules and regulations (LAC 33:Part XI).

Temporary Permit—a written authorization issued by the administrative authority for a specific amount of time to a person for the construction, installation, operation, closure, or post-closure of a particular facility, or operation of an existing facility, used or intended to be used for processing or disposing of solid waste in accordance with the Act, these regulations, and specified terms and conditions.

Test Hole—an exploratory borehole drilled to obtain geologic, hydrologic, or water quality data.

Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods (SW-846)—EPA's official compendium of analytical and sampling methods that has been evaluated and approved for use in complying with

these regulations. EPA Publication SW-846 [Third Edition (November 1986), as amended by Updates I (July 1992), II (September 1994), IIA (August 1993), IIB (January 1995), III (December 1996), and IIIA (April 1998)]. The Third Edition of SW-846 and Updates I, II, IIA, IIB, and III (Document Number 955-001-00000-1) are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512-1800. Update IIIA is available through EPA's Methods Information Communication Exchange (MICE) Service. MICE can be contacted by phone at (703) 821-4690. Update IIIA can also be obtained by contacting the U.S. Environmental Protection Agency, Office of Solid Waste (5307W), OSW Methods Team, 1200 Pennsylvania Ave, NW, Washington, DC, 20460. Copies of the Third Edition and its updates are also available from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161, (703) 487-4650. Copies may be inspected at the Library, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave, NW, Washington, DC 20460, or at the Office of the Federal Register, 800 North Capitol Street, NW, Suite 700, Washington, DC.

Thermophilic Stage—a biological stage in the composting process characterized by active bacteria that favor a high temperature range of 45°C to 75°C. It occurs early in the composting process, before the mesophilic stage, and is associated with a high rate of decomposition.

Topographic Map—a map showing the elevation and relief of the land surface using contour lines or spot elevations.

Topsoil—the surface layer of soil, capable of promoting growth of vegetation.

Toxicity Characteristic Leaching Procedure (TCLP)—a method to determine if a waste exhibits hazardous characteristics, conducted in accordance with LAC 33:Part V.

Transfer Station—repealed.

Transfer Station (Non-Processing)—see *Non-Processing Transfer Station*.

Transfer Station (Processing)—a Type I-A or II-A solid waste processing facility where solid waste is transferred from collection vehicles, processed, and placed in other vehicles for transportation (e.g., a facility that separates recyclables from industrial or putrescible waste streams).

Transport—to move industrial solid waste off-site and/or to move solid waste of a commercial establishment or more than one household to a transfer station or processing or disposal facility.

Transporter—any person who moves industrial solid waste off-site and/or who moves solid waste of a commercial establishment or more than one household to a transfer station or processing or disposal facility.

Trash—nonputrescible refuse including, but not limited to, white goods, furniture, and wood and metal goods.

Treatment Zone—the depth in the soil of a landfarm into which solid waste has been incorporated and additional depths to which decomposition is occurring based on site-specific conditions.

TSCA—the Toxic Substances Control Act (15 U.S.C. §2601 et seq. (1976), a federal act that supplements other federal statutes including the Clean Air Act.

Type (of Waste)—a category of waste in a general classification defined for solid waste management purposes (e.g., commercial, industrial, residential).

Type I Facility—a facility used for disposing of industrial solid wastes (e.g., a landfill, surface impoundment, or landfarm). (If the facility is used for disposing of residential or commercial solid waste, it is also a Type II facility.)

Type I-A Facility—a facility used for processing industrial solid waste (e.g., a transfer station (processing), shredder, baler, etc.). (If the facility is used for processing residential or commercial solid waste, it is also a Type II-A facility.)

Type II Facility—a facility used for disposing of residential and/or commercial solid waste (e.g., a landfill, surface impoundment, or landfarm). (If the facility is used for disposing of industrial solid waste, it is also a Type I facility.)

Type II-A Facility—a facility used for processing residential, infectious, or commercial solid waste (e.g., a transfer station (processing), composting municipal solid waste facility, refuse-derived fuel facility, shredder, baler, autoclave, etc.). (If the facility is used for processing industrial solid waste, it is also a Type I-A facility.)

Type III Facility—a facility used for disposing or processing of construction/demolition debris or woodwaste, composting organic waste to produce a usable material, or separating recyclable wastes (e.g., a construction/demolition-debris or woodwaste landfill, separation facility, or composting facility).

Unauthorized Discharge—a continuous, intermittent, or one-time discharge, whether intentional, anticipated, or unanticipated, from any source, permitted or unpermitted, that is in contravention of any provision of the Act or of any permit or license terms and conditions, or of any applicable regulation, compliance schedule, variance, or exemption of the administrative authority.

Unauthorized Dump—a solid waste disposal facility whose operation is not authorized by the administrative authority.

Unit of a Facility—designated area of a facility wherein solid waste is, has been, or will be processed, stored, or disposed of.

Unstable Area—a location that is susceptible to natural or human-induced events or forces capable of impairing the integrity of some or all of the landfill structural components responsible for preventing releases from a landfill. *Unstable areas* can include poor foundation conditions, areas susceptible to mass movement, and karst terrains.

Upgrade—to bring an existing facility into compliance with applicable regulations.

Uppermost Aquifer—the aquifer nearest the natural ground surface, as well as lower aquifers that are hydraulically interconnected with this aquifer within the facility's property boundary. The uppermost aquifer may or may not be the uppermost water-bearing permeable zone.

Uppermost Water-Bearing Permeable Zone—the permeable zone that occurs nearest the natural ground surface. This zone may or may not be the uppermost aquifer and may act as a potential contaminant pathway.

Vector—see *Disease Vector*.

Water Table—the potentiometric surface of the saturated zone in an unconfined aquifer or confining bed at which the pore pressure is equal to the atmospheric pressure.

Wetlands—those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. *Wetlands* generally include swamps, marshes, bogs, and similar areas.

White Goods—discarded domestic and commercial appliances, such as refrigerators, ranges, washers, and water heaters.

Woodwaste—yard trash and types of waste generated by land and right-of-way clearing operations, sawmills, plywood mills, and woodyards associated with the lumber and paper industry, such as wood residue, cutoffs, wood chips, sawdust, wood shavings, bark, wood refuse, wood-fired boiler ash, wood ash, and plywood or other bonded materials that contain only polyurethane, phenolic-based glues, or other glues that are approved specifically by the administrative authority. Uncontaminated, un-treated or un-painted lumber or wooden pallets are considered woodwaste under this definition.

Working Face—that portion of a landfill where waste is currently being added during the operating day.

Yard Trash—vegetative matter resulting from landscaping, maintenance, or land-clearing operations, including trees and shrubbery, leaves and limbs, stumps, grass clippings, and flowers.

Zone of Incorporation—the depth to which solid waste has been incorporated into the soil of a landfarm.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 22:279 (April 1996), amended by the Office of Waste Services, Solid Waste Division, LR 23:1145 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2514, 2609 (November 2000), amended by the Office of Environmental Assessment, LR 31:1576 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1019 (June 2007).

§117. Experimental Operations for New Technologies

A. This Section allows applicants to submit requests allowing for experimental operations for new technology prior to requesting a permit modification (e.g., use of alternate daily cover).

B. Permission may be granted to facilitate experimental operations intended to develop new methods or technology providing strict conformity with these regulations is demonstrated in the request.

C. Experimental operations shall be considered only where significant health, safety, environmental hazards, or nuisances will not be created, and when a detailed proposal is submitted and accepted that sets forth the objectives, procedures, controls, monitoring, reporting, time frame, and other data regarding the experimental operations.

D. Restrictions. Initial experimental operations shall be limited to a maximum of two years. However, the department may renew the request for additional time periods upon a showing by the person that the need for a continuance is valid.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1026 (June 2007).

Chapter 3. Scope and Mandatory Provisions of the Program

§301. Exempted Waste

A. All *solid wastes* as defined by the Act and these regulations are subject to the provisions of these regulations, except as follows:

1. wastes regulated under other authority and not processed or disposed of in solid waste facilities permitted under these regulations, including but not limited to, the following wastes:

a. agricultural-crop residues, aquacultural residues, silvicultural residues, and other agricultural wastes stored, processed, or disposed of on the site where the crops are grown or that are stored, processed, or disposed in accordance with a best management practice plan that has been provided to the Office of Environmental Services, Waste Permits Division, and approved in writing by the Department of Agriculture, and within the jurisdiction of the Department of Agriculture;

b. mining overburden, spoils, tailings, and related solid wastes within the jurisdiction of the Department of Natural Resources, Office of Conservation;

c. produced-waste fluids and muds resulting from the exploration for or production of petroleum and geothermal energy, and all surface and storage waste facilities incidental to oil and gas exploration and production, within the jurisdiction of the Department of Natural Resources, Office of Conservation;

d. uncontaminated dredge or earthen excavation spoil;

e. solid wastes while they are stored at residences or commercial establishments and regulated by local ordinance, or within the jurisdiction of the Department of Health and Hospitals;

f. uncontaminated residues from beneficiation of earthen material;

g. uncontaminated storm water and uncontaminated noncontact cooling water;

h. infectious waste or other hospital or clinic wastes that are not processed or disposed of in solid waste processing or disposal facilities permitted under these regulations; and

i. sewage sludge (including domestic septage) that is generated, treated, processed, composted, blended, mixed, prepared, transported, used, or disposed of in accordance with LAC 33:IX.Chapter 69. Sewage sludge and domestic septage not managed in accordance with LAC 33:IX.Chapter 69 shall be managed in accordance with these regulations;

2. wastes excluded by the definition of *solid waste* in the Act and/or as otherwise specified in the Act, including:

a. hazardous wastes subject to regulation under R.S. 30:2171 et seq.;

b. solid or dissolved material in domestic sewage (such as domestic-oxidation ponds), except separated sludges;

c. solid or dissolved materials in irrigation-return flow;

d. discharges that are downstream from point sources subject to permit under R.S. 30:2074, except waste contained in solid waste facilities prior to the final discharge point, provided, however, that:

i. wastewaters in existing ditches that are downstream of a designated internal state or federal wastewater discharge point are exempt from the definition of *solid waste* if they require no further treatment to meet final state or federal wastewater discharge point permit limits or if they require only pH adjustment to meet final pH permit limits, or suspended solids settling specifically to meet final total suspended solids permit limits;

ii. wastewaters in existing ditches upstream of a designated final state or federal wastewater discharge point that require no further treatment to meet final state or federal permit limits or that only require pH adjustment to meet final pH permit limits, or solids settling specifically to meet total suspended solids permit limits, are exempt from the definition of *solid waste*;

iii. solids or sludges in ditches are exempt from the definition of *solid waste* until such time as such solids or sludges are removed from the ditches for disposal, provided however, that this exclusion from the definition of solid waste only applies to solids and sludges derived from wastewaters described in Clauses A.2.d.i and ii of this Section;

iv. the administrative authority reserves the right to withdraw the exemption for wastewaters in Clauses A.2.d.i and ii of this Section if the wastewaters contribute to groundwater contamination;

e. source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.); and

f. compost produced by an individual for his own beneficial use, as provided in R.S. 30:2416.G.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 22:279 (April 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2515 (November 2000), LR 28:780 (April 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2485 (October 2005), LR 33:1027 (June 2007).

§303. Wastes Not Subject to the Permitting Requirements or Processing or Disposal Standards of These Regulations

A. The following solid wastes, when processed or disposed of in an environmentally sound manner, are not subject to the permitting requirements or processing or disposal standards of these regulations:

1. wastes resulting from land and right-of-way clearing (trees, stumps) and disposed of on the site where generated;

2. solid wastes in facilities that have been closed in a manner acceptable to the administrative authority prior to January 20, 1981 (This Paragraph is not intended to require permitting of any facilities that have been closed in a manner acceptable to the administrative authority and which remain closed.);

3. materials such as waste papers, plastics, metals, and glass that are presorted to be recycled or reused and not destined for disposal;

4. uncontaminated earthen materials such as limestone, clays, sands, clamshells, river silt, and uncontaminated residues from beneficiation of earthen materials;

5. brick, stone, reinforced and unreinforced concrete, and asphaltic roadbeds;

6. sludges resulting from the treatment of water at public or privately owned water-supply treatment plants;

7. petroleum-refining catalysts and other materials utilized as feedstocks that are managed at a facility in order to recover these wastes for further use;

8. agricultural wastes, including manures, that are removed from the site of generation by an individual for his own personal beneficial use on land owned or controlled by the individual. The amount of wastes covered by this exemption shall not exceed 10 tons per year (wet-weight) per individual per use location;

9. solid wastes that are treated or disposed of in a hazardous waste treatment or disposal facility that is regulated under LAC 33:Part V;

10. woodwastes that are beneficially-used in accordance with a Best Management Practice Plan approved in writing by the Department of Agriculture and submitted to the Office of Environmental Services, Waste Permits Division, provided that the following requirements are met:

a. the generator shall notify the Office of Environmental Services, Waste Permits Division, of such activity at each site in accordance with LAC 33:VII.401.A;

b. the generator shall submit to the Office of Management and Finance, Financial Services Division, a disposer annual report that reports amounts of woodwastes beneficially-used at each site;

11. solid wastes reused in a manner protective of human health and the environment, as demonstrated by a soil reuse plan or beneficial use plan prepared in accordance with LAC 33:VII.Chapter 11 and approved by the administrative authority;

12. other wastes deemed acceptable by the administrative authority based on possible environmental impact; and

13. spent blasting sand generated from the preparation of unpainted surfaces.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, LR 24:2250 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2515 (November 2000), repromulgated LR 27:703 (May 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2486 (October 2005), LR 33:1027 (June 2007).

§305. Facilities Not Subject to the Permitting Requirements or Processing or Disposal Standards of These Regulations

A. The following facilities that are operated in an environmentally sound manner are not subject to the permitting requirements or processing or disposal standards of these regulations:

1. incinerators that receive only on-site-generated commercial solid waste and that have a design rate of no more than 250 pounds per hour;

2. shredders, autoclaves, balers, and compactors that receive no waste volume from off-site sources;

3. facilities that process on-site-generated, nonhazardous, petroleum-contaminated media and debris from underground storage tank corrective action or other remedial activities, including, but not limited to, remedial action resulting from an order issued by the administrative authority in accordance with R.S. 30:2275(E) that involves the processing of solid waste by the facility, provided such processing is completed in less than 12 months and is in accordance with a corrective action plan authorized by the administrative authority.

4. construction/demolition-debris disposal facilities that receive only on-site-generated construction/demolition-debris, provided that the following requirements are met:

a. the facility shall notify the Office of Environmental Services, Waste Permits Division, of such activity in accordance with LAC 33:VII.401.A; and

b. the facility shall submit to the Office of Management and Finance, Financial Services Division, a disposer annual report in accordance with the standards for construction/demolition-debris disposal facilities found in LAC 33:VII.721.B.1;

c. the facility owner shall update the parish mortgage and conveyance records by entering the specific location of the facility and specifying that the property was used for the disposal of solid waste. The document shall identify the name and address of the person with the knowledge of the contents of the facility. An example of the form to be used for this purpose is provided in LAC 33:VII.3011.Appendix F. The facility shall provide the Office of Environmental Services, Waste Permits Division, with a true copy of the document filed and certified by the parish clerk of court;

5. solid waste injection wells that are under the jurisdiction of the Department of Natural Resources, provided, however, that any storage, processing, or disposal (not including injection) incidental to such injection wells is subject to these regulations;

6. industrial facilities that process solid waste by non-destructive and non-thermal means on the site where the waste is generated (i.e., none of the waste is from off-site sources);

7. secondary containment systems (e.g., sumps or dikes) that are designed and operated to contain non-routine spill events (i.e., do not routinely receive solid waste except for de minimus spillage) from manufacturing or product storage areas within an industrial establishment. This exemption does not include secondary containment systems for solid waste disposal units;

8. woodwaste facilities at which only woodwaste is disposed of on property owned by the generator of the woodwaste, provided that the following requirements are met:

a. the facility shall notify the Office of Environmental Services, Waste Permits Division, of such activity in accordance with LAC 33:VII.401.A;

b. the facility shall submit to the Office of Management and Finance, Financial Services Division, a disposer annual report in accordance with the standards for woodwaste disposal facilities in LAC 33:VII.721.B.1;

c. the facility shall comply with applicable Louisiana water quality regulations (LAC 33:Part IX);

d. the facility shall comply with the perimeter barrier, security, and buffer zone requirements in LAC 33:VII.719.B;

9. facilities at which only woodwastes resulting from utility right-of-way clearing are received, provided the following conditions are met:

a. the facility property shall be controlled by the utility company that generates the woodwaste;

b. the facility shall comply with the natural or manmade perimeter barrier and security requirements in LAC 33:VII.719.B;

c. the facility shall not receive solid waste from any source other than the utility company (or its authorized contractors) which generates the waste;

d. the facility shall notify the Office of Environmental Services, Waste Permits Division, of its activities in accordance with LAC 33:VII.401.A;

e. the facility shall submit to the Office of Management and Finance, Financial Services Division, a disposer annual report that accurately estimates volumes of waste disposed in accordance with the standards for woodwaste disposal facilities found in LAC 33:VII.721.B.1; and

f. the facility shall comply with applicable Louisiana water quality regulations (LAC 33:Part IX);

10. ditches that receive nonroutine spillage (i.e., do not routinely receive solid waste except for de minimus spillage) from manufacturing or product storage areas within an industrial establishment. This exemption does not include ditches for solid waste disposal units such as landfills, landfarms, or surface impoundments;

11. recycling facilities, as described in LAC 33:VII.303.A.3, that receive only source-separated recyclables; and

12. hospitals and other health care facilities that store or treat regulated infectious waste generated on-site or that accept waste from off-site wholly- or partly-owned subsidiaries.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 22:279 (April 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1264 (June 2000), LR 26:2515, 2609 (November 2000), repromulgated LR 27:703 (May 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2486 (October 2005), LR 33:1028 (June 2007).

§307. Exemptions

A. Any person subject to these regulations who generates, collects, stores, transports, processes, or disposes of solid waste may petition the administrative authority for exemption from these regulations or any portion thereof.

1. The administrative authority may provide exemptions from these regulations or any portion thereof when petitions for such are deemed appropriate after consideration of the factors enumerated in Subparagraphs

B.2.a and b of this Section as well as any other pertinent factors.

2. The administrative authority shall make a decision whether or not to grant the exemption requested within 180 days from the date on which the request for exemption was filed, unless a longer time period is agreed upon by mutual consent of the applicant and the administrative authority. In no case shall the time period be greater than one year.

B. Each request for an exemption shall:

1. identify the specific provisions of these regulations from which a specific exemption is sought;

2. provide sufficient justification for the type of exemption sought, that includes, but may not be limited to, the following demonstrations:

a. that compliance with the identified provisions would tend to impose an unreasonable economic, technologic, safety, or other burden on the person or the public as determined by the department; and

b. that the proposed activity will have no significant adverse impact on the public health, safety, welfare, and the environment, and that it will be consistent with the provisions of the Act;

3. include proof of publication of the notice as required in Paragraph C.1 of this Section, except for emergency exemptions.

C. Public Notification of Exemption Requests

1. Persons requesting an exemption shall publish a notice of intent to submit a request for an exemption, except as provided in Paragraph C.2 of this Section. This notice shall be published one time as a single classified advertisement in the legal-notices section of a newspaper of general circulation in the area and parish where the facility is located, and one time as a classified advertisement in the legal-notices section of the official journal of the state. If the facility is in the same parish or area as the official journal of the state, a single classified advertisement in the legal-notices section of the official journal of the state shall be the only public notice required.

2. Persons granted emergency exemptions by the administrative authority shall publish a notice to that effect in the legal-notices section of a newspaper of general circulation in the area and parish where the facility requesting the exemption is located. The notice shall be published one time as a single classified advertisement in the legal-notices section of a newspaper of general circulation in the area and parish where the facility is located, and one time as a classified advertisement in the legal-notices section of the official journal of the state. The notice shall describe the nature of the emergency exemption and the period of time for which the exemption was granted. Proof of publication of the notice shall be forwarded to the Office of Environmental Services, Waste Permits Division, within 60 days after the granting of an emergency exemption.

D. Innovative or Alternate Technology Exemption. Persons requesting an exemption based on innovative or alternate technology shall follow the procedure specified in Subsections A, B, and C, except for Subparagraph B.2.a, of this Section. Requests for exemptions based on innovative technology may be granted by the administrative authority based on the ability of the applicant to make the following demonstrations:

1. the request is based on innovative or alternative technology;

2. the innovative or alternative technology will satisfy all of the applicable standards in LAC 33:Part VII other than those for which the exemption is sought; and

3. the innovative or alternative technology will produce performance or will provide protection that is equivalent or superior to that required by all the standards for which the exemption is sought.

E. No exemptions may be granted for Type II landfills that would allow noncompliance with federal regulations, specifically 40 CFR 257 and 258, as amended on October 9, 1991.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2516 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2486 (October 2005), LR 33:1029 (June 2007).

NOTE: §309 has moved to §110.

§311. Submittal of Information by Persons Other than Permit Holder or Applicant

A. Documentation must be provided to the Office of Environmental Services, Waste Permits Division, by the permit holder or applicant authorizing other persons to submit information on their behalf.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2516 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2486 (October 2005), LR 33:1030 (June 2007).

§313. Classification

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), repealed by the Office of the Secretary, Legal Affairs Division, LR 33:1030 (June 2007).

§315. Mandatory Provisions

A. Generating, Collecting, Transporting, Storing, Processing, and Disposing of Solid Waste. Solid waste shall be generated, collected, transported, stored, processed, and disposed of only in accordance with these regulations.

B. Storage of Wastes. No solid waste shall be stored or allowed to be stored in a manner that may cause a nuisance or health hazard or detriment to the environment as determined by the administrative authority. Unless authorized or approved by the administrative authority, no solid waste shall be stored or allowed to be stored at an off-site location unless such off-site location is an authorized transfer station or collection, processing, or disposal facility.

C. Processing and Disposal of Solid Waste. Except as otherwise provided in these regulations, all solid waste shall be processed or disposed of at a permitted solid waste facility.

D. Abandonment of Solid Waste. Abandonment of solid waste shall be considered an act of disposal.

E. Access to Facilities. The administrative authority or his representative shall have access to the premises of all facilities used for the management of solid waste for all purposes authorized under R.S. 30:2001 et seq., particularly R.S. 30:2012. These inspections may be conducted during normal operating hours; however, the department reserves the right to conduct inspections before and after operating hours. Upon request of the operator or permit holder, the administrative authority or his representative shall discuss the preliminary findings of any such investigation before leaving the premises.

F. Reporting of Unauthorized Discharge. Any discharge, deposit, injection, spill, dumping, leaking, or placing of solid waste into or on the water, air, or land of the state in contravention of the Act, these regulations, or the terms and conditions of a permit issued thereunder, or any accident, fire, explosion, or other emergency that results in such unauthorized solid waste discharge, shall be reported by any person causing, allowing, or suffering said discharge or by any person with knowledge of the discharge to the Office of Environmental Compliance in accordance with LAC 33:I.Chapter 39.

G. Cleanup of Unauthorized Discharge. The cleanup, isolation, removal, or otherwise rendering safe of solid waste processed or disposed of in a manner not authorized by these regulations, or at a facility not permitted to receive such wastes, shall be conducted in accordance with LAC 33:I.Chapter 13 (RECAP), these regulations, or the terms and conditions of any order issued by the administrative authority. Such orders shall not preclude other enforcement action under R.S. 30:2025.

H. Notice of Fire or Damage to Structures in a Solid Waste Facility. The Office of Environmental Compliance shall be notified within the time frame and in the manner provided in LAC 33:I.3923, when damage to or degradation of any structure of a solid waste facility occurs that would impair the ability of the facility to meet the conditions of its permit, or when any fire occurs in the waste management area at a solid waste facility.

I. Construction with Intent to Operate a Facility. The owner/operator shall provide advance written notice, at least 30 days prior to construction, to the parish governing authority whose jurisdiction may be affected, of the intent to operate a transfer station (processing or non-processing) or other type of facility for the offloading and/or transloading of processed solid waste and sewage sludge destined for disposal.

J. Hazardous or Nuclear Wastes in Solid Waste Facilities. No hazardous waste or nuclear material regulated under the Louisiana hazardous waste rules and regulations or Louisiana radiation regulations shall be processed or disposed of at a solid waste facility except in conformance with those regulations. Collectors, transporters, processors, and disposers of solid waste shall determine, according to approved methods, that the waste is not hazardous before collecting, transporting, processing, or disposing of it.

K. Compliance with Other Regulations. All facilities may be subject to applicable federal and state laws and regulations including, but not limited to, Section 402

(NPDES) and Section 404 (Dredge and Fill) of the Clean Water Act; the Coastal Zone Management Act and Federal Aviation Administration regulations; the National Historic Preservation Act of 1966, as amended; the Endangered Species Act; the Wild and Scenic Rivers Act; the Fish and Wildlife Coordination Act; the Clean Air Act; the Toxic Substances Control Act; the Marine Protection Research and Sanctuary Act; the Resource Recovery and Conservation Act; and the Federal Insecticide, Fungicide, and Rodenticide Act.

L. Contamination of the Waters of the State. No person shall cause, allow, or permit solid waste to be disposed of in such a manner that it enters the waters of the state. This does not apply to discharges into waters of the state in accordance with state or federal wastewater-discharge permits.

M. Prohibition of Open Burning of Solid Waste. Open burning of solid waste is prohibited, except in accordance with R.S. 30:2001 et seq. and LAC 33:III.1109.

N. Spent Bauxite Waste and Byproduct Gypsum and Related Wastes

1. The administrative authority may give special consideration to landfills that receive only byproduct gypsum and related wastes (resulting from the production of phosphoric acid, phosphate fertilizers, and hydrofluoric acid) that is generated on-site, with regard to standards for receipt of liquid waste, standing water, specific design and operation of liners and leachate collection and removal systems, daily cover, and final cover, which may include waiver or modification of these standards.

2. The administrative authority may give special consideration to surface impoundments that receive only spent bauxite waste and related wastes (resulting from production of alumina) that is generated on-site, with regard to standards for liners and final cover, which may include waiver or modification of these standards.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 19:1143 (September 1993), LR 19:1315 (October 1993), repromulgated LR 19:1421 (November 1993), amended LR 22:279 (April 1996), amended by the Office of Waste Services, Solid Waste Division, LR 23:954 (August 1997), LR 23:1145 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2516 (November 2000), LR 30:1675 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2487 (October 2005), LR 33:1030 (June 2007).

NOTE: §317 has moved to §112.

NOTE: §319 has moved to §114.

Chapter 4. Administration, Classifications, and Inspection Procedures for Solid Waste Management Systems **[Formerly Chapter 5.Subchapter A]**

§401. Notification

[Formerly §503]

A. Persons who generate industrial solid waste and/or persons who transport, process, or dispose of solid waste shall, within 30 days after they become subject to these regulations, notify the Office of Environmental Services, Waste Permits Division, in writing of such activity. A form to be used for notification shall be obtained from the Office

of Environmental Services, Waste Permits Division, or through the department's website.

B. Persons who generate industrial solid waste and persons who transport, process, or dispose of solid waste who have previously notified the department of such activity are not required to renotify, unless changes are warranted.

C. Owners or operators of non-processing transfer stations and collection facilities are required to notify the Office of Environmental Services prior to operation of these types of facilities. Existing facilities that have previously notified are not required to renotify.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1031 (June 2007).

§403. Existing Facilities Classification

[Formerly §505]

A. Classification

1. Existing facilities that have not been previously regulated, classified, or issued a standard permit shall be classified by the administrative authority to the classification categories of "closure" or "upgrade."

2. Within 120 days after the review and acknowledgment of the notification by the administrative authority, a representative of the department shall perform an on-site investigation of the facility to determine its classification. At the time of the classification inspection, the processor and/or disposer shall provide the representative with a map clearly depicting the location and size of each facility (and units thereof) to be classified and a schematic of the waste entering each unit of a facility to be classified.

3. Within 30 days after the classification inspection, any person who processes or disposes of solid waste shall file with the Office of Environmental Services, Waste Permits Division, a notice of his intent to upgrade or close a facility.

B. Existing Facilities Not Operating under a Standard Permit. All facilities without a standard permit, whether operating or inactive, shall be upgraded or closed in accordance with LAC 33:VII.Subpart 1 unless they have previously been satisfactorily closed in accordance with LAC 33:VII.Subpart 1.

C. Permits for Existing Facilities Operating Without a Standard Permit. All existing solid waste facilities classified for upgrading shall apply for a standard permit according to these regulations.

D. Existing facilities that have not previously been classified or that are not operating under a standard permit shall be classified for upgrade or closure by the following criteria and procedure.

1. Classification criteria are based on compliance with standards detailed in LAC 33:VII.Chapters 5, 7, and 8, with emphasis on the following:

- a. potential for pollution of surface water;
- b. potential for pollution of groundwater;
- c. potential for pollution of air;
- d. location in flood plains or in wetlands;
- e. potential for danger to health due to disease vectors, use of waste-filled lands for food crops, and similar health-related practices;

- f. safety considerations, including danger from explosive gases, from fires, and from birds attracted to the site that might obstruct the glide path of aircraft; and
- g. threat to endangered species.

2. The classification procedure comprises identifying, evaluating, and preliminary classification of facilities.

a. An ongoing effort shall be made to identify all solid waste facilities.

b. The facilities shall be evaluated on the basis of the criteria listed in this Subsection and based on the needs and plans of the facility.

E. Issuance of Temporary Permits

1. The administrative authority may issue a temporary permit for upgrading to persons who process or dispose of solid waste. The temporary permit shall require the submission of a permit application. The temporary permit will allow the facility to continue operations in accordance with an approved interim operational plan pending the standard permit application process.

2. The administrative authority may issue a temporary permit for closure to persons who process or dispose of solid waste. The temporary permit shall require the submission of a closure plan permit application and implementation schedule. The temporary permit may allow the facility to continue operations in accordance with an approved interim operational plan pending the closure process.

3. Temporary permits are subject to annual permit maintenance fees as provided in LAC 33:VII.1505.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1031 (June 2007).

§405. Categorization of Facilities [Formerly §507]

A. All existing and proposed facilities shall be categorized as defined in LAC 33:VII.115 and as one or more of the following:

1. *Type I*—industrial disposal facilities (e.g., landfills, surface impoundments, or landfarms);

2. *Type I-A*—industrial processing facilities (e.g., balers, shredders, transfer stations (processing), etc.);

3. *Type II*—non-industrial disposal facilities (e.g., landfills, surface impoundments, or landfarms);

4. *Type II-A*—non-industrial processing facilities (e.g., composting municipal solid waste facilities, balers, shredders, transfer stations (processing), refuse-derived fuel facilities, autoclaves, etc.); or

5. *Type III*—construction/demolition-debris and woodwaste landfills, separation facilities, composting facilities, or other.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1032 (June 2007).

§407. Inspection Types and Procedures [Formerly §509]

A. Classification Inspection. A classification inspection is required for all existing facilities not previously classified, and each facility's initial classification is based on this inspection. It is performed after the department receives notification of operations (LAC 33:VII.401.A).

B. Compliance Inspections. The department shall inspect each facility and each facility's records periodically to determine the facility's compliance with the terms of standard or temporary permits and these regulations.

C. Initial Start-Up Inspection—Newly Permitted Facilities

1. For existing facilities, the initial start-up inspection shall be made after a standard permit has been issued, all upgrading measures are completed, new activities as a result of upgrade are implemented, and certification is submitted to the Office of Environmental Services, Waste Permits Division, by a professional engineer, licensed in the state of Louisiana, that the facility is constructed and has been upgraded in accordance with the permit.

2. For new facilities, the initial start-up inspection shall be made after a standard permit has been issued, construction measures have been completed, and certification is submitted to the Office of Environmental Services, Waste Permits Division, by a professional engineer, licensed in the state of Louisiana, that the facility is constructed in accordance with the permit.

3. All start-up inspections shall be initiated within 10 working days of receipt of certification by the Office of Environmental Services, Waste Permits Division, unless a longer time period is set by mutual agreement.

4. Within 15 working days after a new or existing facility has undergone the initial start-up inspection, the administrative authority shall either issue an order authorizing commencement of operation or a written notice of deficiency to the permittee, unless a longer time period is set by mutual agreement.

D. Construction Inspections. At least 10 days prior to commencing construction of a liner, leak-detection system, leachate-collection system, or monitoring well at a Type I or Type II facility, the permit holder shall notify the Office of Environmental Services, Waste Permits Division, in writing, of the date on which construction will begin, in order to allow a representative of the division the opportunity to witness the construction.

E. Unit Start-Up Inspections—All Facilities

1. Start-up inspections for new units of a standard permitted facility shall be conducted after completion of all construction measures and after submittal of certification to the Office of Environmental Services, Waste Permits Division, by a professional engineer licensed in the state of Louisiana, that the unit is constructed in accordance with the permit.

2. All start-up inspections shall be initiated within 10 working days of receipt of certification by the Office of Environmental Services, Waste Permits Division.

3. Within 10 working days after a new unit of a facility has undergone a unit start-up inspection, the administrative authority shall issue either an approval of the construction or a notice of deficiency. The unit may commence operation only upon approval of the construction of the unit by the administrative authority.

F. Modification Start-Up Inspections—All Facilities

1. Start-up inspections for modified construction of a standard permitted facility shall be conducted after construction measures of the modification are completed and certification is submitted to the Office of Environmental Services, Waste Permits Division, by a professional engineer

licensed in the state of Louisiana, that the modified feature/unit has been constructed in accordance with the modification approved by the administrative authority and any conditions specified in such approval.

2. After a modified unit/feature of a facility has successfully undergone a start-up inspection and after the permit holder has been notified in writing of this, operation of the modified unit/feature may commence.

G. Closure Inspections. Closure inspections will be conducted within 30 days after the Office of Environmental Services, Waste Permits Division, has received written notice from the permit holder that closure requirements have been met in accordance with the approved closure plan and the permit holder has filed a request for a closure inspection. Closure inspections shall be conducted before backfilling of a facility takes place. The administrative authority reserves the right to determine if a facility has been closed properly.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1032 (June 2007).

Chapter 5. Solid Waste Management System

NOTE: Former Subchapter A has moved to Chapter 4.

Subchapter A. General Standards for Nonpermitted Facilities

[Formerly Chapter 7.Subchapter A]

§501. Standards Governing Industrial Solid Waste Generators

[Formerly §701]

NOTE: Former §501 has been repealed.

A. Annual Reports

1. Generators of industrial solid waste shall submit annual reports to the Office of Management and Finance, Financial Services Division, listing the types and quantities, in wet-weight tons per year, of industrial solid waste they have disposed of off-site.

2. The generator's annual report shall name the transporter(s) who removed the industrial solid waste from the generator's site and the permitted solid waste processing or disposal facility or facilities that processed or disposed of the waste both in and out of state. The form to be used shall be obtained from the department or through the department's website.

3. The reporting period shall be from July 1 through June 30.

4. The report shall be submitted to the Office of Management and Finance, Financial Services Division, by August 1 of each reporting year.

5. Generators of industrial solid waste shall maintain, for two years, all records concerning the types and quantities of industrial solid waste disposed of off-site.

B. Generator Notification and Waste Testing

1. Prior to the initial transport of an industrial solid waste off-site, generators of industrial solid waste shall:

a. submit to the Office of Environmental Services, Waste Permits Division, a generator notification form, which is available on the department's website or by contacting the Office of Environmental Services, Waste Permits Division, that includes analysis, analytical data, and/or process knowledge that confirms that the waste is not a characteristic or listed hazardous waste as defined in LAC 33:Part V or by federal regulations; and

b. obtain an industrial waste code number from the disposal facility.

2. Subsequent movements of the same industrial waste off-site shall not require new waste testing or a new industrial waste code number, unless the process that generates the waste or the characteristics of the waste change. However, the waste characterization data and the waste code required in Paragraph B.1 of this Section shall be maintained by the generator.

C. Except as otherwise provided in these regulations, all solid waste shall be processed or disposed of at a permitted solid waste facility.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1033 (June 2007).

§503. Standards Governing Solid Waste Accumulation and Storage

[Formerly §703]

NOTE: Former §503 has moved to §401.

A. Solid Waste Accumulation

1. No solid waste shall be stored or allowed to be stored long enough to cause a nuisance, health hazard, or detriment to the environment as determined by the administrative authority.

2. Containers used for solid waste shall prevent access by rodents and insects, shall minimize the escape of odors, and shall keep out water.

3. On-site processing or disposal, other than the exclusions provided for in LAC 33:VII.301, 303, or 305, is not allowed on the sites of commercial or industrial generators, unless a permit is obtained.

B. Solid Waste Stored in Tanks

1. Storage tanks shall be designed, constructed, and operated to prevent release of their solid waste contents into the surrounding environment.

2. A storage vessel that is partially buried underground shall meet the definition of *tank* provided in LAC 33:VII.115 in order to be considered a tank; otherwise, it will be considered a surface impoundment.

C. Solid Waste Generated by Offshore or Inland Waterway Facilities

1. The generation point for solid waste transported from offshore and inland waterway facilities shall be the place of delivery of the solid waste to a land-based facility. This facility shall not be considered off-site.

2. Storage of the solid waste shall meet the standards of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1033 (June 2007).

§505. Standards Governing Collectors and Off-Site Transporters of Solid Waste

[Formerly §705]

NOTE: Former §505 has moved to §403.

A. Vehicle Requirements

1. The types and sizes of vehicles shall comply with the regulations and licensing of the Department of Transportation and Development and with applicable local

ordinances governing weight and size for the streets that must be traveled for solid waste pickup.

2. Cover

a. The bodies of vehicles used to transport trees, tree limbs, construction materials, or metals shall contain such waste without allowing materials to fall or blow off the vehicle.

b. The bodies of vehicles used to collect or transport all other solid waste shall be covered at all times, except during loading and unloading, in a manner that prevents rain from reaching waste, inhibits access by rodents and insects, prevents waste from falling or blowing from the vehicle, minimizes escape of odors, and does not create a nuisance.

c. The bodies of vehicles used for the transportation of ash shall be leak-resistant and covered so as to prevent emissions.

3. The bodies of all vehicles used to transport solid waste that produces leachate shall be equipped with a collection and containment system to ensure that leachate from the waste is not discharged in violation of these regulations.

4. The interior and exterior of the body of a vehicle used to transport putrescible solid waste shall be washed down as often as needed to ensure that odors generated by putrescible matter are minimized.

B. Vehicle Washdown Area

1. The vehicle washdown area shall be designed, constructed, and operated to prevent leakage which may lead to groundwater contamination or uncontrolled contaminated surface runoff.

2. Water collected shall be discharged and the containment system thoroughly cleaned as often as is needed to minimize odors. The leachate and the cleanout water shall be discharged in accordance with all applicable state and federal regulations.

C. Standards Governing Waste Transportation by Other Modes

1. Barge and Ship Transport

a. Barge and ship transport shall be governed by Paragraphs A.2, 3, and 4 and Paragraphs B.1 and 2 of this Section.

b. Loading and unloading facilities shall comply with LAC 33:VII.507, as applicable.

2. Pipelines

a. Transfer points, pumping stations, and other facilities with a potential for spillage shall be located above grade, or in watertight compartments, and shall be in containment areas constructed to hold the maximum potential spill.

b. Containment areas shall consist of a base and dikes constructed of concrete, compacted clay, or other impervious materials. All joints must be sealed.

3. Rail

a. Rail car transport shall be governed by Paragraphs A.2, 3, and 4 and Paragraphs B.1 and 2 of this Section.

b. Loading and unloading facilities shall comply with LAC 33:VII.507, as applicable.

4. Other. Collectors and off-site transporters utilizing facilities not covered by Subsections A and C of this Section shall apply to the administrative authority for regulations governing the proposed facility.

D. Transportation to Processing and Disposal Facilities. Solid waste shall be transported, for processing or disposal, only to facilities permitted to receive such waste.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), repromulgated by the Office of the Secretary, Legal Affairs Division, LR 33:1033 (June 2007).

§507. Standards Governing Collection Facilities for Solid Waste
[Formerly §707]

NOTE: Former §507 has moved to §405.

A. Owners/operators of collection facilities shall comply with existing local zoning and comprehensive land-use regulations and ordinances. The owner/operator shall be responsible for the management of the collection facility, in accordance with this Section.

B. Containers shall provide complete containment of waste, thereby preventing litter, discharges, odor, and other pollution of adjoining areas. Collection facilities shall meet the standards found in LAC 33:VII.503.A. They shall also occupy sufficient land so that vehicles using the facility will not adversely affect traffic or otherwise constitute a hazard or endanger public safety.

C. All waste accumulated or stored at the facility shall remain in containers that meet the following requirements.

1. Containers shall provide sufficient capacity to contain waste and prevent litter.

2. Containers shall be designed, constructed, and operated to keep out water and prevent leakage.

3. Containers shall be constructed and maintained to minimize odors and access by rodents and insects.

4. Containers shall be emptied before accumulation becomes a nuisance, a health hazard, or a detriment to the environment as determined by the administrative authority.

D. Inspections of collection facilities shall be made by the owner/operator, looking for cleanliness of the site, overfill of containers, closed lids, leaking containers, and deterioration of containers. Inspections shall be documented, and the records shall be maintained and available for inspection within 24 hours of request.

E. No processing or disposal shall occur at a collection facility.

F. Removal of all remaining wastes to a permitted facility shall occur at closure of a collection facility.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1034 (June 2007).

§508. Standards Governing Non-Processing Transfer Stations for Solid Waste

A. Owners/operators of non-processing transfer stations shall:

1. provide advanced written notice, at least 30 days prior to construction, to the parish governing authority whose jurisdiction may be affected, of the intent to operate a non-processing transfer station or other type of facility for the offloading and/or transloading of solid waste destined for disposal;

2. notify the Office of Environmental Services, Waste Permits Division, in accordance with LAC 33:VII.401;

3. comply with existing local zoning and comprehensive land-use regulations and ordinances; and

4. maintain site access roads or waterways in a manner that shall meet the demands of the facility and is designed to avoid, to the extent practicable, congestion, sharp turns, obstructions, or other hazards conducive to accidents. The surface roadways shall be adequate to withstand the weight of transportation vehicles.

B. New facilities in which construction has commenced after June 20, 2007, shall comply with the buffer zone requirement of not less than 200 feet between the facility and the property line. A reduction in this requirement shall be allowed only with the permission, in the form of a notarized affidavit, of the adjoining landowner. A copy of the notarized affidavit waiving the 200-foot buffer zone shall be entered in the mortgage and conveyance records of the parish in which the adjoining landowner's property is located. The affidavit shall be maintained with the records of the facility.

C. No processing or disposal shall occur at a non-processing transfer station.

D. Facilities shall also comply with LAC 33:VII.503 and 505.

E. Owners/operators shall have the personnel necessary to achieve the operational requirements of the facility.

F. Facilities shall have control measures that prevent unauthorized ingress or egress, except by willful entry. During operating hours, each facility entry point shall be continuously monitored, manned, or locked. During non-operating hours, each facility entry point shall be locked.

G. Each tipping area shall be constructed and operated to prevent litter from leaving the tipping area. This area shall be constructed of sufficiently low permeable material (i.e., concrete or asphalt) to prevent soil and groundwater contamination.

H. Facilities shall be inspected by the owner/operator at the end of each operating day, and litter or waste shall be cleaned up and placed into the last transportation vehicle. These inspections shall be documented, and the inspection records shall be retained in accordance with Subsection J of this Section.

I. Odors shall be controlled by the best means practicable. The non-processing transfer stations shall be cleaned daily by an appropriate method to minimize odors and nuisance conditions.

J. All facility records shall be maintained and available for inspection within 24 hours of request. These records shall be maintained for the life of the facility and shall be retained for at least three years after closure.

K. The owner/operator of a non-processing transfer station may construct a drop-off area at the non-processing transfer station site such that certain activities can be conducted. No industrial waste shall be accepted, and materials shall be managed in accordance with LAC 33:VII.503, 507, and Subsections F, G, I, K, and L of this Section. These areas are intended for the use of commercial facilities and residential solid waste. Collection and storage of the following wastes are allowed, provided it does not become a nuisance, a health hazard, or a detriment to the environment as determined by the administrative authority:

1. white goods;
2. presorted yard trash; or
3. household recyclable materials.

L. Discharges from the facility shall be controlled and shall conform to all applicable state and federal laws.

M. All waste shall be removed to a permitted facility at closure. Notification of closure shall be submitted to the Office of Environmental Services, Waste Permits Division.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1034 (June 2007).

Subchapter B. Permit Administration

§509. Permit System

[Formerly §511, §315.E and F, and §513.F.5-7]

NOTE: Former §509 has moved to §407.

A. Scope

1. A permit shall be secured by any person who processes and/or disposes of solid waste, with the exception of those wastes or processing and disposal facilities described in LAC 33:VII.301, 303, and 305. Facilities (existing and proposed) subject to the permitting requirements detailed in these regulations are defined in LAC 33:VII.115 and categorized in LAC 33:VII.405.A.

2. Generators that are not processors or disposers of solid waste are not required to secure a permit. Generators of industrial solid waste shall notify the Office of Environmental Services, Waste Permits Division, in accordance with LAC 33:VII.501.B. Generators of industrial solid waste are subject to the applicable standards provided in LAC 33:VII.501.

3. Transporters that are not processors or disposers of solid waste are not required to secure a permit. Transporters of solid waste shall notify the Office of Environmental Services, Waste Permits Division, in accordance with LAC 33:VII.401.A and B. Transporters of solid waste are subject to the applicable standards provided in LAC 33:VII.505.

4. Collection facilities and non-processing transfer stations at which no solid waste is processed or disposed of are not required to secure a permit. Non-processing transfer stations and collection facilities are subject to the standards found in LAC 33:VII.503, 507, and 508 and shall notify the Office of Environmental Services, Waste Permits Division, in accordance with LAC 33:VII.401.A and B.

5. No new permitted solid waste facilities shall be constructed or operated without approval issued by the administrative authority in accordance with these regulations.

B. Types of Permits

1. Temporary Permit

a. A temporary permit allows continued operation of an existing facility that becomes subject to regulations in accordance with an interim operational plan, but does not allow the expansion or modification of the facility without prior approval of the administrative authority. The administrative authority may issue a temporary permit in the following situations:

i. to allow operations to continue at an existing facility while a standard permit application is being processed;

ii. to allow operations to continue at an existing facility while a closure plan permit application is being

processed or while a facility is being closed in accordance with a closure plan; or

iii. to allow an applicant for a permit for a proposed facility to begin construction on a limited basis while an application for a proposed facility is being processed for good cause shown.

b. The types of temporary permits issued on or after February 20, 1993, will correspond to the facility categories defined in LAC 33:VII.405.A (*Type I, Type I-A, Type II, Type II-A, and Type III*).

c. Temporary permits that may have been issued in the form of administrative orders, compliance orders to upgrade, orders to upgrade, compliance orders to close, orders to close, and settlement agreements prior to February 20, 1993, may remain in effect until otherwise determined by the administrative authority.

2. Standard Permit. Standard permits may be issued by the administrative authority to applicants for solid waste processing and/or disposal facilities that have successfully completed the standard permit application process. The types of standard permits issued on or after February 20, 1993, shall correspond to the facility categories set forth in LAC 33:VII.405.A (*Type I, Type I-A, Type II, Type II-A, and Type III*).

C. Existing Facilities Not Previously Classified or Not Presently Operating Under a Standard Permit

1. Only those existing facilities that the administrative authority classifies for upgrading may apply for a standard permit. The person notifying the Office of Environmental Services, Waste Permits Division, shall be issued a temporary permit and may continue operations in accordance with the interim operational plan, pending a decision on the standard permit application.

2. A facility classified for closure shall be issued a temporary permit. That permit may allow operations to continue in accordance with the interim operational plan until closure activities are accomplished and may require that closure and/or post-closure activities be conducted in accordance with the approved closure plan.

D. Duration of Permit

1. Temporary permits are issued for a period not to exceed three years.

2. Standard permits are issued for a period not to exceed 10 years.

a. Processing and/or disposal facilities with an effective standard permit shall submit to the Office of Environmental Services, Waste Permits Division, a new permit application at least 455 calendar days before the expiration date of the standard permit, unless permission for later filing is granted by the administrative authority. If the reapplication is submitted on or before the deadline above, and the administrative authority does not issue a final decision on the reapplication on or before the expiration date of the standard permit, the standard permit shall remain in effect until the administrative authority issues a final decision.

b. For permits with expiration dates greater than ten years, upon expiration, the department may, in accordance with rules and regulations, extend or reissue a permit for another time period of up to 10 years.

E. Property Rights. Permits issued by the administrative authority do not convey any property rights of any sort or any exclusive privilege.

F. Public Hearings

1. Public hearings may be held concerning standard permits for facilities at the discretion of the administrative authority.

2. Public hearings may be held concerning major modifications of standard permits at the discretion of the administrative authority.

3. Public hearings shall not be held concerning mandatory modifications, which are considered an enhancement of a standard permitted facility.

4. Public hearings shall be held for all facilities when the administrative authority determines, on the basis of comments received and other information, that a hearing is necessary. Public hearings shall be conducted in accordance with the Environmental Quality Act for fact-finding hearings or other hearing procedures developed by the administrative authority and the Administrative Procedure Act (R.S. 49:950 et seq.).

5. Public Opportunity to Request a Hearing. Any person may, within 30 days after the date of publication of the newspaper notice (LAC 33:VII.513.F.3), request that the administrative authority consider whether a public hearing is necessary. If the administrative authority determines that the requests warrant it, a public hearing will be scheduled. If the administrative authority determines that the requests do not raise genuine and pertinent issues, the Office of Environmental Services, Waste Permits Division, shall send the person requesting the hearing written notification of the determination. The request for a hearing shall be in writing and shall contain the name and affiliation of the person making the request and the comments in support of or in objection to the issuance of a permit.

6. Public Notice of a Public Hearing. If the administrative authority determines that a hearing is necessary, notices shall be published at least 20 days before a fact-finding hearing in the official journal of the state and in the official journal of the parish where the facility is located. The notice shall be published one time as a single classified advertisement in the legal or public notices section of the official journal of the parish where the facility is located. If the affected area is in the same parish or area as the official journal of the state, a single classified advertisement in the official journal of the state shall be the only public notice required. Those persons on the Office of Environmental Services, Waste Permits Division's mailing list for hearings shall be mailed notice of the hearing at least 20 days before a public hearing. A notice shall also be published in the departmental bulletin, if available.

7. Receipt of Comments Following a Public Hearing. Comments received by the Office of Environmental Services, Waste Permits Division, until the close of business 30 days after the date of a public hearing shall be reviewed by the Office of Environmental Services, Waste Permits Division.

G. Other Requirements

1. The applicant may be required to obtain additional permits from other local state and federal agencies. Typical permits that may be needed are as follows:

- a. NPDES/LPDES (Section 402 of the Clean Water Act);
- b. Louisiana Water Discharge Permit;
- c. Louisiana Coastal Use Permit (issued by the Department of Natural Resources, Coastal Management Division);
- d. Louisiana Air Emissions Permit;
- e. U.S. Army Corps of Engineers Permit (Dredge and Fill, Section 404 of the Clean Water Act); or
- f. appropriate local permits, licenses, certification, registration, or approval.

2. It is the responsibility of the applicant to identify the other applicable permits that may be required. A listing of the permits that the applicant intends to apply for shall be included in the solid waste permit application.

3. The applicant shall provide appropriate documentation to the Office of Environmental Services, Waste Permits Division, that the proposed use does not violate zoning or other land-use regulations that exist at the time of the submittal of the standard permit application.

H. Suspension, Revocation, or Modification of Permit. The administrative authority may review a permit at any time. After review of a permit, the administrative authority may, for cause, suspend, revoke, or modify a permit in whole or in part in accordance with the procedures outlined in the Administrative Procedure Act.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1035 (June 2007).

NOTE: §511 has moved to §509.

§513. Permit Process for Existing Facilities and for Proposed Facilities

A. Applicant Public Notice

1. The prospective applicant shall publish a notice of intent to submit an application for a standard permit. This notice shall be published 1 to 45 days prior to submission of the application to the Office of Environmental Services, Waste Permits Division. This notice shall be published one time as a single classified advertisement in the legal or public notices section of the official journal of this state and in a major local newspaper of general circulation. If the affected area is in the same parish or area as the official journal of the state, a single classified advertisement in the legal or public notices section of the official journal of the state will be the only public notice required.

2. The public notice shall be published in accordance with the form provided in LAC 33:VII.3001.Appendix A.

3. Proof of publication of the notice shall be included in all applications for existing and proposed facilities submitted to the administrative authority.

B. Permit Application Requirements

1. Any person who generates, transports, or stores solid waste, and is not issued a permit, but is under the jurisdiction of the department, shall comply with the applicable provisions of these regulations.

2. Submittal of Permit Applications

a. Any applicant for a standard permit for existing or proposed processing and disposal facilities shall complete Part I, Part II, and Part III of the standard permit application, following the instructions for the appropriate facility class in LAC 33:VII.519, 521, 522, and 523, and submit six copies

to the Office of Environmental Services, Waste Permits Division. Each individual copy of the application shall be a standard three-ring-bound document measuring 8 1/2 by 11 inches. All appendices, references, exhibits, tables, etc., shall be marked with appropriate tabs.

b. Each application for which a standard permit application fee is prescribed shall be accompanied by a remittance in the full amount of the appropriate standard permit application review fee. No application shall be accepted or processed prior to payment of the full amount specified.

c. The completed separate standard permit application for each existing facility shall be submitted to the Office of Environmental Services, Waste Permits Division, within 180 days after issuance of the temporary permit.

C. Notices to Parish Governing Authorities. As provided in R.S. 30:2022, upon receipt of a permit application the Office of Environmental Services, Waste Permits Division, shall provide written notice on the subject matter to the parish governing authority, which shall promptly notify each parish municipality affected by the application.

D. Permit Application Review and Evaluation

1. LAC 33:VII.Chapters 5, 7, and 8 establish the evaluation criteria used by the administrative authority.

2. The applicant shall make available to the department the assistance of professional engineers or other trained individuals responsible for the design of the facility to explain the design and operation.

3. The applicant shall furnish all other technical information the department may require to evaluate the standard permit application, monitor the performance of the facility, and insure that the purposes of this program are met.

E. Standard Permit Applications Deemed Unacceptable or Deficient

1. Applications deemed unacceptable for technical review will be rejected. For the administrative authority to reconsider the application, the applicant shall resubmit the entire standard permit application to the Office of Environmental Services, Waste Permits Division, including the review fee, by a reasonable due date set by the administrative authority.

2. Applicants submitting applications that are acceptable for technical review, but lack the information outlined in these regulations, will be informed of such deficiencies. These deficiencies shall be corrected by the submission of supplementary information by a reasonable due date set by the administrative authority.

3. The supplementary information as referenced in Paragraph E.2 of this Section shall address all deficiencies and/or show significant progression in addressing all outstanding deficiencies, or the application may be denied.

F. Standard Permit Applications Deemed Technically Complete

1. Applications that have been deemed technically complete shall be accepted for public review. When the permit is accepted for public review, the administrative authority shall request an additional six copies, or more if necessary. The copies shall be distributed for public review as follows:

- a. one copy to the local parish governing authority;
- b. one copy to the parish public library;
- c. one copy to the appropriate regional office; and

d. three copies to remain in the department's headquarters in Baton Rouge.

2. Each copy of the permit application shall be provided as a standard three-ring-bound document (8 1/2 by 11 inches). The application shall incorporate, in the appropriate sections, all required plans, narratives, and revisions made during the review process and shall include appropriate tabbing for all appendices, figures, etc. Permit applications that present revisions made during the review process as a separate supplement to the application will not be accepted.

3. After the six copies are submitted to the Office of Environmental Services, Waste Permits Division, notices shall be placed in the department's bulletin (if one is available), the official journal of the state, and in a major local newspaper of general circulation. The Office of Environmental Services, Waste Permits Division, shall publish a notice of acceptance for review one time as a single classified advertisement in the legal or public notices section of the official journal of the state and one time as a classified advertisement in the legal or public notices section of a major local newspaper of general circulation. If the affected area is in the same parish or area as the official journal of the state, a single classified advertisement in the official journal of the state shall be the only public notice required. The notices will solicit comment from interested individuals and groups. Comments received by the administrative authority within 30 days after the date the notice is published in the local newspaper shall be reviewed by the Office of Environmental Services, Waste Permits Division. The notice shall be published in accordance with the sample public notice provided by the Office of Environmental Services, Waste Permits Division. The applicant is responsible for providing the Office of Environmental Services, Waste Permits Division, with proof of publication.

G. Issuance or Denial of a Permit

1. The administrative authority shall issue a standard permit or shall issue a standard permit application denial, including reasons for the denial.

2. A temporary permit may be issued to allow closure activities to be accomplished at a facility that has been issued a standard permit application denial.

H. Public Notice of Permit Issuance. No later than 10 days following the issuance of a standard permit, the permit holder shall publish a notice of the issuance of the standard permit. This notice shall be published in the official journal of the state and in a major local newspaper of general circulation. The notice shall be published one time as a single classified advertisement in the legal or public notices section of the official journal of the state, and one time as a classified advertisement in the legal or public notices section of a major local newspaper of general circulation. If the affected area is in the same parish or area as the official journal of the state, a single classified advertisement in the official journal of the state shall be the only public notice required. The notice shall be published in accordance with the sample public notice provided by the Office of Environmental Services, Waste Permits Division. The applicant is responsible for providing the Office of Environmental Services, Waste Permits Division, with proof of publication.

I. As a permit condition, the department will establish a time frame for the facility to submit the necessary construction certification.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2519 (November 2000), amended by the Office of Environmental Assessment, LR 30:2032 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2488 (October 2005), LR 33:1037 (June 2007).

Subchapter C. Permit System for Facilities Classified for Upgrade or Closure

§515. Permit Process for Existing Facilities Classified for Closure

A. Closure Plan Review and Evaluation. LAC 33:VII.403 and Chapters 7 and 8 establish the criteria used by the Office of Environmental Services, Waste Permits Division, in evaluating closure plans.

B. Submittal of Closure Plans

1. Permit holders for facilities classified for closure shall submit to the Office of Environmental Services, Waste Permits Division, four bound copies of a closure plan within 60 days after issuance of the temporary permit for the facility. Each individual copy of the plan shall be a standard three-ring-bound document measuring 8 1/2 by 11 inches. All appendices, references, exhibits, tables, etc., shall be marked with appropriate tabs.

2. The following sections of the regulations shall be addressed and incorporated in the closure plan for all solid waste processing and disposal facilities. All responses and exhibits shall be identified in the following sequence to facilitate the evaluation. All applicable sections of LAC 33:VII.Chapters 5, 7, and 8 shall be addressed and incorporated into the closure plan:

- a. LAC 33:VII.519, Permit Application Form, Part I;
- b. a map clearly delineating the location of the facility;
- c. LAC 33:VII.709.A.10.a and b, Wells and Faults, respectively (only required for Type I and II facilities with on-site closure);
- d. LAC 33:VII.521.C, Facility Characteristics;
- e. LAC 33:VII.521.D, Facility Surface Hydrology;
- f. LAC 33:VII.522.A, General Facility Geology (only required for Type I and II facilities that have not undergone clean closure);
- g. LAC 33:VII.522.B, Subsurface Characterization (only required for Type I and II facilities that have not undergone clean closure);
- h. LAC 33:VII.522.C, Facility Groundwater Monitoring (only required for Type I and II facilities that have not undergone clean closure);
- i. LAC 33:VII.521.E, Facility Plans and Specifications (only required for Type I and II facilities with on-site closure and with a potential to produce gases);
- j. the types (including chemical and physical characteristics) and sources of waste processed or disposed of at the facility;
- k. LAC 33:VII.521.I.1.b and c, Facility Closure;
- l. LAC 33:VII.521.I.1-2, Facility Closure;

- m. LAC 33:VII.521.J.1, Facility Post-Closure;
- n. LAC 33:VII.521.J.2, Facility Post-Closure (only required for Type I and II facilities that have not undergone clean closure);
- o. the name of the person who currently owns the land;
- p. LAC 33:VII.521.K, Financial Responsibility; and
- q. a detailed implementation schedule for closure of the facility with built-in flexibility to coincide with the date of approval of the closure plan.

3. Each closure plan for which a closure fee is prescribed shall be accompanied by a remittance in the full amount of the closure plans review fee. No closure plans shall be accepted or processed prior to payment of the full amount specified.

C. Closure Plans Determined Unacceptable or Deficient

1. Closure plans that are determined unacceptable for a technical review will be rejected. The permit holder shall be required to resubmit the entire application to the Office of Environmental Services, Waste Permits Division, including the review fee, by a date set by the administrative authority.

2. Permit holders submitting closure plans that lack the information contained in Paragraph B.2 of this Section and the applicable standards of LAC 33:VII.Chapters 7 and 8 shall be informed of such in a closure plan deficiency letter; these shall be corrected by submission of supplementary information within 30 days after receipt of the closure plan deficiency letter.

D. Closure Plans Deemed Technically Complete. Closure plans that have been deemed technically complete shall be approved. Within 30 days after receipt of closure plan approval, the permit holder shall submit to the Office of Environmental Services, Waste Permits Division, three copies of the closure plan that incorporate all revisions made during the closure plan review process. Additional copies will be required if deemed necessary by the administrative authority. Each copy shall be provided as a standard three-ring-bound document measuring 8 1/2 by 11 inches, and shall include appropriate tabbing for all appendices, figures, etc. Closure plans shall incorporate revisions made during the review process. Closure plans that present revisions made during the review process as a separate supplement to the closure plan shall not be accepted.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2520 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2489 (October 2005), LR 33:1038 (June 2007).

§517. Modifications of Permits and Other Authorizations to Operate

A. Modification Requests

1. The permit holder shall notify the Office of Environmental Services, Waste Permits Division, in advance, of any change in a facility or deviation from a permit. Such notification shall detail the proposed modification and shall include an assessment of the effects of the modification on the environment and/or the operation. Modification details shall include, but not be limited to, a summary detailing the modification request and all

appropriate drawings, narratives, etc., which shall illustrate and describe the originally permitted representations and the proposed modifications thereto. New language requested in the permit narrative and existing language requested to be deleted from the permit narrative shall be identified therein.

a. Initially, six copies of all modification requests shall be provided to the Office of Environmental Services, Waste Permits Division. Each individual copy of the document shall be 8 1/2 by 11 inches and shall be bound in a standard three-ring binder. The modification shall incorporate, in the appropriate sections, all required plans, narratives, and revisions made during the review process and shall include appropriate tabbing, if applicable, for all appendices, figures, etc.

b. Each permit-modification request for which a permit-modification review fee is prescribed shall be accompanied by remittance of the fee. No permit modification requests shall be accepted or processed prior to payment in full of the amount specified.

2. All notifications of proposed changes in ownership of a permit for a facility are the responsibility of the permittee and shall include the following, to be submitted to the Office of Environmental Services, Waste Permits Division:

a. a statement from the proposed permit holder assuming liability for existing violations and conditions;

b. proof of financial responsibility by the proposed permit holder, as required by LAC 33:VII.1301.A and 1303.A; and

c. information required in LAC 33:I.1701.

3. All major modification requests shall address the additional supplemental information required pursuant to LAC 33:VII.523 in relation to the proposed permit modification activity.

B. Public Notice of Modifications

1. Major modifications require public notice. Modifications to a permit that require public notice include, but are not limited to, the following:

a. a change in the types of waste to be received at a facility (e.g., where a facility is modified to accept industrial waste);

b. an increase in the volume or rate of waste to be received at a facility;

c. a physical expansion of the service area;

d. an increase in the capacity of a facility;

e. a decrease in the personnel or equipment of a facility without a reasonable reduction in waste acceptance;

f. an extension of the operating hours or days of operation;

g. a change to the facility that may have an impact on traffic patterns;

h. a reduction in the number of groundwater sampling parameters or the number of groundwater monitoring wells;

i. a lateral or vertical expansion of the permitted area(s) for waste disposal, except for vertical expansion that would result in no net increase of in-place volume; or

j. other changes in the permit that tend to make the permit requirements less stringent.

2. Permit modifications that require public notice and that have been determined by the Office of Environmental Services, Waste Permits Division, to be technically complete

will be accepted for public review. When the permit modification is accepted for public review, the administrative authority shall request an additional six copies, or more if necessary. The copies will be distributed for public review as follows:

- a. three copies to the Office of Environmental Services, Waste Permits Division, in Baton Rouge;
- b. one copy to the appropriate regional office;
- c. one copy to the local parish public library; and
- d. one copy to the local parish governing authority.

3. After distribution of the permit modification, a notice shall be published by the department in the official journal of the state and in the official journal of the parish where the facility is located. The notice shall be published one time as a single classified advertisement in the legal or public notices section of the official journal of the state, one time as a classified advertisement in the legal or public notices section of the official journal of the parish where the facility is located, and one time in the department's bulletin. The cost of the publication shall be borne by the applicant. If the affected area is in the same parish or area as the official journal of the state, a single classified advertisement in the official journal of the state shall be the only public notice required. The notice shall solicit comments from interested individuals and groups. Comments delivered or received within 30 days after the date the notices are published shall be reviewed by the Office of Environmental Services, Waste Permits Division. The notice shall be published in accordance with a sample public notice provided by the Office of Environmental Services, Waste Permits Division.

4. Mandatory modifications are considered to be enhancements and will require neither public notice nor public hearing.

C. No modification shall be instituted without the written approval of the administrative authority.

D. Operation of a modified construction feature or unit of a standard permitted facility may commence after the provisions of LAC 33:VII.407.F are met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2014.2.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, LR 25:661 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2520 (November 2000), amended by the Office of Environmental Assessment, LR 30:2033 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2430, 2490 (October 2005), LR 33:1039 (June 2007).

Subchapter D. Permit Application

§519. Part I: Permit Application Form

A. The applicant shall complete a standard permit application Part I Form obtained from the Office of Environmental Services, Waste Permits Division, or the department's website. The form requires the following information:

1. the name of the applicant (prospective permit holder) applying for a standard permit;
2. the facility name;
3. a description of the location of the facility (identify by street and number or by intersection of roads, or by mileage and direction from an intersection);

4. the geographic location (section, township, range, and parish where the facility is located, and the coordinates, as defined by the longitude and latitude to the second), of the centerpoint of the facility;

5. the mailing address of the applicant;

6. the contact person for the applicant (the position or title of the contact person is acceptable);

7. the telephone number of the contact person;

8. the type and purpose of the operation (check each applicable box);

9. the status of the facility (if leased, state the number of years of the lease and provide a copy of the lease agreement);

10. the operational status of the facility;

11. the total site acreage and the amount of acreage that will be used for processing and/or disposal;

12. a list of all environmental permits that relate directly to the facility represented in this application;

13. the zoning of the facility that exists at the time of the submittal of the standard permit application (note the zone classification and zoning authority, and include a zoning affidavit or other documentation stating that the proposed use does not violate existing land-use requirements);

14. the types, maximum quantities (wet tons/week), and sources (percentage of the on-site or off-site-generated waste to be received) of waste to be processed or disposed of by the facility;

15. the specific geographic area(s) to be serviced by the solid waste facility;

16. proof of publication of the notice regarding the submittal of the permit application as required in LAC 33:VII.513.A;

17. the signature, typed name, and title of the individual authorized to sign the application (provide proof of the legal authority of the signatory to sign for the applicant); and

18. any additional information required by the administrative authority.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1040 (June 2007).

§520. Compliance Information

A. All applicants for solid waste permits shall comply with the requirements of LAC 33:I.1701.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2014.2.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 25:661 (April 1999), repromulgated by the Office of the Secretary, Legal Affairs Division, LR 33:1040 (June 2007).

§521. Part II: Supplementary Information, All Processing and Disposal Facilities

A. The permit application for solid waste processing and disposal facilities shall contain the information described in this Section. All responses and exhibits shall be identified in the following sequence to facilitate the evaluation. Additionally, all applicable Sections of LAC 33:VII.Chapters 7 and 8 shall be addressed and incorporated

into the application responses. If a Section does not apply, the applicant shall state that it does not apply and explain why.

B. Location Characteristics. Standards pertaining to location characteristics are contained in LAC 33:VII.709.A (Type I and II facilities), LAC 33:VII.717.A (Type I-A and II-A facilities), and LAC 33:VII.719.A (Type III facilities). The following information is required for all facilities:

1. area master plans;
2. access facilities;
3. a letter from an appropriate agency concerning the traffic flow for facilities receiving waste generated off-site;
4. the distance to the nearest airport runway and proof of notification to the affected airport and the Federal Aviation Administration;
5. the existing land use;
6. an aerial photograph of the site;
7. the environmental characteristics of the site;
8. a wetlands demonstration, if applicable, as provided in LAC 33:VII.709.A.8;
9. demographic information concerning the estimated population density, within a 3-mile radius of the facility boundary, based on the latest census figures; and
10. information regarding wells, faults, seismic impact zones, unstable areas, and utilities, which is required for Type I and II facilities.

C. Facility Characteristics. Standards concerning facility characteristics are contained in LAC 33:VII.709.B (Type I and II facilities), LAC 33:VII.717.B (Type I-A and II-A facilities), and LAC 33:VII.719.B (Type III facilities). A facility plan, including drawings and a narrative, describing the information required below shall be provided.

1. The following information is required for all facilities:

- a. elements of the process or disposal system employed;
- b. the perimeter barrier and other control measures;
- c. a buffer zone;
- d. fire-protection and medical care measures;
- e. landscaping and other beautification efforts;
- f. devices or methods to determine, record, and monitor incoming waste;
- g. NPDES/LPDES discharge points (existing and proposed); and
- h. other features, as appropriate.

2. The following information is required for Type I and II facilities:

- a. areas for isolating nonputrescible waste or incinerator ash, and borrow areas; and
- b. location of leachate collection/treatment/removal system.

D. Facility Surface Hydrology. Standards governing facility surface hydrology are contained in LAC 33:VII.711.A (Type I and II landfills), LAC 33:VII.713.A (Type I and II surface impoundments), LAC 33:VII.715.A (Type I and II landfarms), LAC 33:VII.717.C (Type I-A and II-A facilities), LAC 33:VII.719.C (Type III facilities), and LAC 33:VII.723.B (composting facilities). The following information is required for all facilities:

1. a description of the method to be used to prevent surface drainage through the operating areas of the facility;

2. a description of the facility runoff/run-on collection system;

3. the rainfall amount from a 24-hour/25-year storm event;

4. the location of aquifer recharge areas in the site or within 1,000 feet of the site perimeter, along with a description of the measures planned to protect those areas from the adverse impact of operations at the facility; and

5. if the facility is located in a flood plain, a plan to ensure that the facility does not restrict the flow of the 100-year base flood or significantly reduce the temporary water-storage capacity of the flood plain, and documentation indicating that the design of the facility is such that the flooding does not affect the integrity of the facility or result in the washout of solid waste.

E. Facility Plans and Specifications. Standards governing facility plans and specifications are contained in LAC 33:VII.711.B (Type I and II landfills), LAC 33:VII.713.B (Type I and II surface impoundments), LAC 33:VII.715.B (Type I and II landfarms), LAC 33:VII.717.E (Type I-A and II-A facilities), LAC 33:VII.721.A (Type III construction and demolition debris and woodwaste landfills), LAC 33:VII.723.A (composting facilities), and LAC 33:VII.725.A (Type III separation and woodwaste processing facilities).

1. Certification. The person who prepared the permit application shall provide the following certification:

"I certify under penalty of law that I have personally examined and I am familiar with the information submitted in this permit application and that the facility as described in this permit application meets the requirements of LAC 33:VII.Subpart 1. I am aware that there are significant penalties for knowingly submitting false information, including the possibility of fine and imprisonment."

2. Geotechnical field tests and laboratory tests shall be conducted according to the standards of the American Society for Testing and Materials (ASTM) or the EPA or other applicable standards approved by the administrative authority. The results of these tests may be used for modeling and analysis purposes.

3. The following information is required for Type I and II facilities:

a. detailed plan-view drawings showing original contours, proposed elevations of the base of units prior to installation of the liner system, and proposed final contours (e.g., maximum height);

b. detailed drawings of slopes, levees, and other pertinent features;

c. the type of material and its source for levee construction. Calculations shall be performed to indicate the volume of material required for levee construction;

d. representative cross sections showing original and final grades, drainage, the location and type of liner, and other pertinent information;

e. a description of the liner system, which shall include calculations of anticipated leachate volumes, rationales for particular designs of such systems, and drawings; and

f. a description of the leachate collection and removal system, which shall include calculations of anticipated leachate volumes, rationales for particular designs of such systems, and drawings.

4. The following information is required for Type I, II, and III landfills:

a. approximate dimensions of daily fill and cover; and

b. the type of cover material and its source for daily, interim, and final cover. Calculations shall be performed to indicate the volume of material required for daily, interim, and final cover.

5. Type I and II landfills and surface impoundments with a potential to produce gases shall provide a gas collection/treatment or removal system.

F. Facility Administrative Procedures. Standards governing facility administrative procedures are contained in LAC 33:VII.711.C (Type I and II landfills), LAC 33:VII.713.C (Type I and II surface impoundments), LAC 33:VII.715.C (Type I and II landfarms), LAC 33:VII.717.F (Type I-A and II-A facilities), LAC 33:VII.721.B (Type III construction and demolition debris and woodwaste landfills), LAC 33:VII.723.C (composting facilities), and LAC 33:VII.725.B (Type III separation and woodwaste processing facilities).

1. The following information is required for all facilities:

a. a description of the recordkeeping system, including types of records to be kept, and the use of records by management to control operations as required;

b. an estimate of the minimum personnel, listed by general job classification, required to operate the facility;

c. the maximum days of operation per week and hours per facility operating day (maximum hours of operation within a 24-hour period); and

d. an annual report submitted to the administrative authority.

2. Type II and Type III facilities shall include the number of certified facility operators determined and certified by the Louisiana Solid Waste Operator Certification and Training Program Board (R.S. 37:3151 et seq. and LAC 46:Part XXIII).

G. Facility Operational Plans. Standards governing facility operational plans are contained in LAC 33:VII.711.D (Type I and II landfills), LAC 33:VII.713.D (Type I and II surface impoundments), LAC 33:VII.715.D (Type I and II landfarms), LAC 33:VII.717.G (Type I-A and II-A facilities), LAC 33:VII.721.C (Type III construction and demolition debris and woodwaste landfills), LAC 33:VII.723.D (composting facilities), and LAC 33:VII.725.C (Type III separation and woodwaste processing facilities).

1. The following information is required for all facilities:

a. types of waste (including chemical, physical, and biological characteristics of industrial wastes generated on-site), maximum quantities of wastes per year, and sources of waste to be processed or disposed of at the facility;

b. waste-handling procedures from entry to final disposition, which could include shipment of recovered materials to a user;

c. minimum equipment to be furnished at the facility;

d. plan to segregate wastes, if applicable;

e. procedures planned in case of breakdowns, inclement weather, and other abnormal conditions (including detailed plans for wet-weather access and operations);

f. procedures, equipment, and contingency plans for protecting employees and the general public from accidents, fires, explosions, etc., and provisions for emergency response and care, should an accident occur (including proximity to a hospital, fire and emergency services, and training programs); and

g. provisions for controlling vectors, dust, litter, and odors.

2. The following information is required for Type I, I-A, II, II-A, and III facilities:

a. a comprehensive operational plan describing the total operation, including but not limited to, inspection of incoming waste to ensure that only permitted wastes are accepted (Type II landfills shall provide a plan for random inspection of incoming waste loads to ensure that hazardous wastes or Toxic Substances Control Act (TSCA) regulated PCB wastes are not disposed of in the facility.); traffic control; support facilities; equipment operation; personnel involvement; and day-to-day activities. A quality-assurance/quality-control (QA/QC) plan shall be provided for facilities receiving industrial waste; domestic-sewage sludge; incinerator ash; asbestos-containing waste; nonhazardous petroleum-contaminated media; and debris generated from underground storage tanks (UST), corrective action, or other special wastes as determined by the administrative authority. The QA/QC plan shall include, but shall not be limited to, the necessary methodologies; analytical personnel; preacceptance and delivery restrictions; handling procedures; and appropriate responsibilities of the generator, transporter, processor, and disposer. The QA/QC plan shall ensure that only permitted, nonhazardous wastes are accepted;

b. salvaging procedures and control, if applicable;

c. scavenging control; and

d. a comprehensive air monitoring plan for facilities receiving waste with a potential to produce methane gases.

3. The following information is required for Type I and II landfarms.

a. Items to be submitted, regardless of land use, include:

i. a detailed analysis of waste, including but not limited to, pH, phosphorus, nitrogen, potassium, sodium, calcium, magnesium, sodium-adsorption ratio, and total metals (as listed in LAC 33:VII.715.D.3.b);

ii. soil classification, cation-exchange capacity, organic matter, content in soil, soil pH, nitrogen, phosphorus, metals (as listed in LAC 33:VII.715.D.3.b), salts, sodium, calcium, magnesium, sodium-adsorption ratio, and PCB concentrations of the treatment zone; and

iii. annual application rate (dry tons per acre) and weekly hydraulic loading (inches per acre).

b. Items to be submitted in order for landfarms to be used for food-chain cropland include:

i. a description of the pathogen-reduction method for septage, domestic sewage sludges, and other sludges subject to pathogen production;

ii. crops to be grown and the dates for planting;

iii. PCB concentrations in waste;

iv. annual application rates of cadmium and PCBs;

and

v. cumulative applications of cadmium and PCBs.

c. Items to be submitted for landfarms to be used for non-food-chain purposes include:

- i. a description of the pathogen-reduction method in septage, domestic sewage sludges, and other sludges subject to pathogen production; and
- ii. a description of control of public and livestock access.

4. The following information is required for Type I-A and II-A incinerator waste-handling facilities and refuse-derived energy facilities:

- a. a description of the method used to handle process waters and other water discharges that are subject to NPDES/LPDES permit and state water discharge permit requirements and regulations; and
- b. a plan for the disposal and periodic testing of ash (All ash and residue shall be disposed of in a permitted facility).

5. The following information is required for Type I-A and II-A refuse-derived fuel facilities and Type III separation and composting facilities:

- a. a description of the testing to be performed on the fuel or compost; and
- b. a description of the uses for and the types of fuel/compost to be produced.

6. Type I-A and II-A refuse-derived fuel facilities and Type III separation and composting facilities shall include a description of marketing procedures and control.

H. Implementation Plans. All facilities shall have implementation plans in accordance with standards in LAC 33:VII.709.D (Type I and II facilities), LAC 33:VII.717.H (Type I-A and II-A facilities), and LAC 33:VII.719.E (Type III facilities).

I. Facility Closure. Standards governing facility closure are contained in LAC 33:VII.711.E (Type I and II landfills), LAC 33:VII.713.E (Type I and II surface impoundments), LAC 33:VII.715.E (Type I and II landfarms), LAC 33:VII.717.I (Type I-A and II-A facilities), LAC 33:VII.721.D (Type III construction and demolition debris and woodwaste landfills), LAC 33:VII.723.E (composting facilities), and LAC 33:VII.725.D (Type III separation and woodwaste processing facilities).

1. The closure plan for all facilities shall include the following:

- a. the date of final closure;
- b. the method to be used and steps necessary for closing the facility; and
- c. an itemized cost of closure of the facility, based on the estimated cost of hiring a third party to close the facility at the point in the facility's operating life when the extent and manner of its operation would make closure the most expensive.

2. The closure plan for Type I and II landfills and surface impoundments shall include:

- a. a description of the final cover and the methods and procedures used to install the cover;
- b. an estimate of the largest area of the facility ever requiring a final cover at any time during the active life;
- c. an estimate of the maximum inventory of solid waste ever on-site over the active life of the facility; and
- d. a schedule for completing all activities necessary for closure.

3. The closure plan for all Type I and II facilities and Type III woodwaste and construction/demolition debris facilities shall include the following:

- a. the sequence of final closure of each unit of the facility, as applicable;
- b. a drawing showing final contours of the facility; and
- c. a copy of the document that will be filed upon closure of the facility with the official parish recordkeeper indicating the location and use of the property for solid waste disposal, unless the closure plan specifies a clean closure.

J. Facility Post-Closure. Standards governing post-closure requirements are contained in LAC 33:VII.711.F (Type I and II landfills), LAC 33:VII.713.F (Type I and II surface impoundments), LAC 33:VII.715.F (Type I and II landfarms), and LAC 33:VII.721.E (Type III construction and demolition debris and woodwaste landfills).

1. The post-closure plan for all facilities shall include the following:

- a. discussion of the long-term use of the facility after closure, as anticipated; and
- b. an itemized cost of conducting post-closure of the facility, based on the estimated cost of hiring a third party to conduct post-closure activities in accordance with the closure plan.

2. The post-closure plan for Type I and II facilities shall include the following:

- a. the method for conducting post-closure activities, including a description of the monitoring and maintenance activities and the frequency at which they will be performed;
- b. the method for abandonment of monitoring systems, leachate collection systems, gas-collection systems, etc.;
- c. measures planned to ensure public safety, including access control and gas control; and
- d. a description of the planned uses of the facility during the post-closure period.

K. Financial Responsibility. Standards governing financial responsibility are contained in LAC 33:VII.Chapter 13. All applicable Sections of LAC 33:VII.Chapter 13 must be addressed and incorporated into the permit application responses. A section documenting financial responsibility according to LAC 33:VII.Chapter 13 that contains the following information shall be included for all facilities:

1. the name and address of the person who currently owns the land and the name and address of the person who will own the land if the standard permit is granted (if different from the permit holder, provide a copy of the lease or document which evidences the permit holder's authority to occupy the property); or
2. the name of the agency or other public body that is requesting the standard permit, or if the agency is a public corporation, its published annual report, or if otherwise, the names of the principal owners, stockholders, general partners, or officers;
3. evidence of liability coverage, including:
 - a. personal injury, employees, and the public (coverage, carriers, and any exclusions or limitations);
 - b. property damage (coverage and carrier);
 - c. environmental risks; and

4. evidence of a financial assurance mechanism for closure and/or post-closure care and corrective action for known releases when needed.

L. Solid Waste Fees. Standards governing solid waste fees are contained in LAC 33:VII.Chapter 15. A section documenting compliance with applicable fees according to LAC 33:VII.Chapter 15 shall be included for all facilities.

M. Special Requirements. The administrative authority may require additional information for special processes or systems and for supplementary environmental analysis.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 19:1143 (September 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2521 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1040 (June 2007).

§522. General Facility Geology, Subsurface Characterization, and Facility Groundwater Monitoring

A. General Facility Geology. Standards governing facility geology are contained in LAC 33:VII.801. The following information is required for Type I, Type I-A, Type II, Type II-A, and Type III facilities:

1. a demonstration that the person who characterized the subsurface soil and groundwater conditions at the facility is qualified. At a minimum, this individual shall be a geologist, or a professional engineer licensed in the state of Louisiana with expertise in geotechnical engineering and hydrogeology; and

2. a demonstration that the facility has natural soils of low permeability as provided in LAC 33:VII.801.A.2; or

3. a design for surfacing natural soils that do not meet the low permeability standard as provided in LAC 33:VII.801.A.3.

B. Subsurface Characterization. Standards governing subsurface characterization are contained in LAC 33:VII.803.

1. Type I, II, and III facilities shall demonstrate that the facility meets the boring requirements provided in LAC 33:VII.803.A.

2. Type I and II facilities shall demonstrate that:

a. the facility meets the piezometer or monitoring well requirements as provided in LAC 33:VII.803.B; and

b. the facility meets the geology and groundwater flow characterization requirements provided in LAC 33:VII.803.C.

C. Facility Groundwater Monitoring. Standards governing facility groundwater monitoring are contained in LAC 33:VII.805. The following information is required for Type I and II facilities:

1. a designation of each zone that will be monitored;

2. a map for each groundwater monitoring zone that depicts the locations of all monitoring wells (including proposed monitoring wells) that are screened in a particular zone and each zone's relevant point of compliance, along with information that demonstrates that monitoring wells meet the standards in LAC 33:VII.805.A.1 and 2. For proposed monitoring wells, the response to this requirement shall provide an implementation schedule for submitting a

revised well location map showing all existing and proposed monitoring wells that are screened in each particular zone;

3. a geologic cross section along the perimeter of the facility showing screen intervals for existing and proposed monitoring wells, along with other applicable information required in LAC 33:VII.803.C.2.a. For proposed monitoring wells, the response to this requirement shall include an implementation schedule for revising applicable geologic cross sections to include the screen interval of the newly installed monitoring wells and other applicable information required in LAC 33:VII.803.C.2.a;

4. a designation of each monitoring well (including any proposed monitoring wells) as either "background" or "down gradient," for each zone that will be monitored;

5. a table displaying pertinent well construction details for each monitoring well, including the elevation of the reference point for measuring water levels to the National Geodetic Vertical Datum (NGVD), the elevation of the ground surface (NGVD), the drilled depth (in feet), the depth to which the well is cased (in feet), the depth to the top and bottom of the bentonite seal (in feet), the depth to the top and bottom of the screen (in feet), the slot size, the casing size, and the type of grout; and as-built diagrams (cross sections) of each well providing the aforementioned well construction details. For proposed monitoring wells, the response to this requirement shall provide an implementation schedule for submitting the information specified in this requirement;

6. a demonstration that the monitoring wells are constructed according to the standards in LAC 33:VII.805.A.3. For proposed monitoring wells, the response to this requirement shall provide an implementation schedule for submitting the information specified in this requirement;

7. for an existing facility, all background data and at least three years of detection monitoring data from monitoring wells in place at the time of the permit application. If this data exists in the department records, the administrative authority may allow references to the data in the permit application. For an existing facility with no wells, groundwater data shall be submitted within 90 days after the installation of monitoring wells. For a new facility or expansion, groundwater data (one sampling event) shall be submitted before waste is accepted;

8. a sampling and analysis plan that meets the standards in LAC 33:VII.805.B and includes a table that specifies each parameter, analytical method, practical quantitation limit, and Chemical Abstracts Service registry number (CAS RN); and

9. a plan for detecting, reporting, and verifying changes in groundwater.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1044 (June 2007).

§523. Part III: Additional Supplementary Information

A. The following supplementary information is required for all solid waste processing and disposal facilities. All responses and exhibits shall be identified in the following sequence to facilitate the evaluation:

1. a discussion demonstrating that the potential and real adverse environmental effects of the facility have been avoided to the maximum extent possible;

2. a cost-benefit analysis demonstrating that the social and economic benefits of the facility outweigh the environmental-impact costs;

3. a discussion and description of possible alternative projects that would offer more protection to the environment without unduly curtailing nonenvironmental benefits;

4. a discussion of possible alternative sites that would offer more protection to the environment without unduly curtailing nonenvironmental benefits; and

5. a discussion and description of the mitigating measures which would offer more protection to the environment than the facility, as proposed, without unduly curtailing nonenvironmental benefits.

B. An application for renewal or extension of an existing permit shall not be subject to submittal of the additional supplementary information required in Subsection A of this Section, unless said renewal or extension encompasses changes that need to be addressed as major applications.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Waste Services, Solid Waste Division, LR 23:1685 (December 1997), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1044 (June 2007).

NOTE: Former Subchapter D has moved to Chapter 15.

NOTE: §525 has moved to §1501.

NOTE: §527 has moved to §1503.

NOTE: §529 has moved to §1505.

Chapter 7. Solid Waste Standards

NOTE: Former Subchapter A has moved to Chapter 5. Subchapter A.

NOTE: §701 has moved to §501.

NOTE: §703 has moved to §503.

NOTE: §705 has moved to §505.

NOTE: §707 has moved to §507.

Subchapter A. Landfills, Surface Impoundments, Landfarms

§709. Standards Governing Type I and II Solid Waste Disposal Facilities [Formerly some of the provisions in Subsections A and B existed in §521.]

A. Location Characteristics. The information on location characteristics listed in this Subsection is required and shall be provided for all Type I and II solid waste disposal facilities, as outlined in LAC 33:VII.521.B.

1. Area master plans shall include location maps and/or engineering drawings. The scale of the maps and engineering drawings must be legible. Area master plans shall show:

- a. the facility;
- b. the road network;
- c. major drainage systems;
- d. drainage-flow patterns;
- e. the location of the closest population centers;
- f. if the facility disposes of putrescible solid waste, the location of any public-use airport used by turbojet aircraft or piston-type aircraft (if within a 5-mile radius);
- g. the location of the 100-year flood plain, based on the most recent data; and
- h. other pertinent information.

2. Access to facilities by land or water transportation shall be by all-weather roads or waterways that can meet the demands of the facility and are designed to avoid, to the extent practicable, congestion, sharp turns, obstructions, or

other hazards conducive to accidents. The surface roadways shall be adequate to withstand the weight of transportation vehicles.

3. A letter shall be acquired from the appropriate agency or agencies regarding any facility receiving waste generated off-site, stating that the facility will not have a significant adverse impact on the traffic flow of area roadways and that the construction, maintenance, or proposed upgrading of such roads is adequate to withstand the weight of the vehicles.

4. Facilities that dispose of putrescible solid waste shall not be located within 10,000 feet of the end of any public-use airport runway used by turbojet aircraft or within 5,000 feet of the end of any public-use airport runway used by only piston-type aircraft. Permit applicants for proposed Type II landfills to be located within a 5-mile radius of any airport runway must notify the affected airport and the Federal Aviation Administration.

5. A description shall be included of the total existing land use within 3 miles of the facility (by approximate percentage) including, but not limited to:

- a. residential;
- b. health-care facilities and schools;
- c. agricultural;
- d. industrial and manufacturing;
- e. other commercial;
- f. recreational; and
- g. undeveloped.

6. A current aerial photograph, representative of the current land use, of a 1-mile radius surrounding the facility, is required. The aerial photograph shall be of sufficient scale to depict all pertinent features.

7. Facilities located in, or within 1,000 feet of, swamps, marshes, wetlands, estuaries, wildlife-hatchery areas, habitat of endangered species, archaeological sites, historic sites, publicly-owned recreation areas, and similar critical environmental areas shall be isolated from such areas by effective barriers that eliminate probable adverse impacts from facility operations. The following information on environmental characteristics shall be provided:

- a. a list of all known historic sites, recreation areas, archaeological sites, designated wildlife-management areas, swamps, marshes, wetlands, habitats for endangered species, and other sensitive ecological areas within 1,000 feet of the facility perimeter, or as otherwise appropriate;
- b. documentation from the appropriate state and federal agencies substantiating the historic sites, recreation areas, archaeological sites, designated wildlife-management areas, swamps, marshes, wetlands, habitats for endangered species, and other sensitive ecological areas within 1,000 feet of the facility perimeter; and
- c. a description of the measures planned to protect the areas listed from the adverse impact of operation at the facility.

8. Units of a disposal facility that have not received waste prior to October 9, 1993, shall not be located in wetlands, unless the permit holder or applicant can make the following demonstrations to the administrative authority:

- a. where applicable under Section 404 of the Clean Water Act or applicable state wetlands laws, the presumption that a practicable alternative to the proposed landfill is available that does not involve wetlands is clearly rebutted;

b. the construction and operation of the facility will not:

i. cause or contribute to violations of any applicable state water quality standard;

ii. violate any applicable toxic effluent standard or prohibition under Section 307 of the Clean Water Act;

iii. jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of a critical habitat, protected under the Endangered Species Act of 1973; and

iv. violate any requirement under the Marine Protection, Research, and Sanctuaries Act of 1972 for the protection of a marine sanctuary;

c. the facility will not cause or contribute to significant degradation of wetlands. The owner or operator must demonstrate the integrity of the facility and its ability to protect ecological resources by addressing the following factors:

i. erosion, stability, and migration potential of native wetland soils, muds, and deposits used to support the facility;

ii. erosion, stability, and migration potential of dredged and fill materials used to support the facility;

iii. the volume and chemical nature of the waste managed in the facility;

iv. impacts on fish, wildlife, and other aquatic resources and their habitat from release of the solid waste;

v. the potential effects of catastrophic release of waste to the wetland and the resulting impacts on the environment; and

vi. any additional factors, as necessary, to demonstrate that ecological resources in the wetland are sufficiently protected;

d. to the extent required under Section 404 of the Clean Water Act or applicable state wetlands laws, steps have been taken to attempt to achieve no net loss of wetlands (as defined by acreage and function) by first avoiding impacts to wetlands to the maximum extent practicable as required by Paragraph A.8 of this Section; then, minimizing unavoidable impacts to the maximum extent practicable; and, finally, offsetting remaining unavoidable wetland impacts through all appropriate and practicable compensatory mitigation actions (e.g., restoration of existing degraded wetlands or creation of man-made wetlands); and

e. sufficient information is available to make a reasonable determination with respect to these demonstrations.

9. A statement of the estimated population, the source of the estimation, and the population density, within a 3-mile radius of the facility boundary is required of all facilities.

10. Well, Fault, and Utility Requirements for Type I and II Facilities

a. Wells. A map is required showing the locations of all known or recorded shot holes and seismic lines, private water wells, and oil and/or gas wells, operating or abandoned, within the facility and within 2,000 feet of the facility perimeter and the locations of all public water systems, industrial water wells, and irrigation wells within 1 mile of the facility. A plan shall be provided to prevent adverse effects on the environment from the wells and shot holes located on the facility.

b. Faults

i. A scaled map is required showing the locations of all recorded faults within the facility and within 1 mile of the perimeter of the facility.

ii. For faults mapped as existing through the facility, verification of their presence by geophysical mapping or stratigraphic correlation of boring logs is required. If the plane of the fault is verified within the facility's boundaries, a discussion of measures that will be taken to mitigate adverse effects on the facility and the environment is required.

iii. A demonstration, if applicable, is required of alternative fault setback distance. Units of a disposal facility that have not received waste prior to October 9, 1993, shall not be located within 200 feet (60 meters) of a fault that has had displacement in Holocene time unless the permit holder or applicant demonstrates to the administrative authority that an alternate setback distance of less than 200 feet will prevent damage to the structural integrity of the unit and will be protective of human health and the environment.

c. Seismic Impact Zone

i. For a facility located in a seismic impact zone, a report is required with calculations demonstrating that the facility will be designed and operated so that it can withstand the stresses caused by the maximum ground motion, as provided in Clause A.10.c.ii of this Section.

ii. Units of a facility located in a seismic impact zone, which have not received waste prior to October 9, 1993, shall be designed and operated so that all containment structures, including liners, leachate collection systems, and surface water control systems, can withstand the stresses caused by the maximum horizontal acceleration in lithified earth material for the site.

d. Unstable Areas

i. A facility shall not be located in an unstable area unless the permit holder or applicant can demonstrate that the facility is designed to ensure the integrity of structural components, such as liners; leak-detection systems; leachate collection, treatment, and removal systems; final covers; run-on/runoff systems; or any other component used in the construction and operation of the facility that is necessary for the protection of human health or the environment.

ii. In determining whether an area is unstable, the permit holder or applicant must consider, at a minimum, the following factors:

(a). on-site or local soil conditions that may result in significant differential settling;

(b). on-site or local geologic or geomorphological features; and

(c). on-site or local human-made features or events (both surface and subsurface).

e. Utilities. A scaled map showing the location of all pipelines, power lines, and rights-of-way within the site is required.

11. Facilities may be subject to a comprehensive land-use or zoning plan established by local regulations or ordinances.

B. Facility Characteristics. The following facility characteristics are required for Type I and II solid waste facilities, as outlined in LAC 33:VII.521.C.

1. Elements of the disposal system employed shall be provided, including, as applicable, property lines, original

contours (shown at not greater than 5-foot intervals), buildings, units of the facility, drainage, ditches, and roads.

2. Perimeter barriers and other control measures, such as security and signs, shall be provided as follows.

a. Facilities shall have a perimeter barrier around the facility that prevents unauthorized ingress or egress, except by willful entry.

b. During operating hours, each facility entry point shall be continuously monitored, manned, or locked.

c. During non-operating hours, each facility entry point shall be locked.

d. Facilities that receive wastes from off-site sources shall post readable signs that list the types of wastes that can be received at the facility.

3 Buffer Zones

a. Buffer zones of not less than 200 feet shall be provided between the facility and the property line. A reduction in this requirement shall be allowed only with the permission, in the form of a notarized affidavit, of the adjoining landowner. A copy of the notarized affidavit waiving the buffer zone requirement shall be entered in the mortgage and conveyance records of the parish for the adjoining landowner's property. Buffer zone requirements may be waived or modified by the administrative authority for areas of landfills that have been closed in accordance with these regulations and for existing facilities.

b. No storage, processing, or disposal of solid waste shall occur within the buffer zone.

4. Fire Protection and Medical Care. Facilities shall have access to required fire protection and medical care, or such services shall be provided internally.

5. Landscaping. All facilities, other than those that are located within the boundaries of a plant, industry, or business that generates the waste to be processed or disposed of, shall provide landscaping to improve the aesthetics of the facility.

6. Devices or Methods for Receiving and Monitoring Incoming Wastes

a. All disposal facilities shall be equipped with a device or method to determine quantity (by wet-weight tonnage); sources (whether the waste was generated in-state or out-of-state and, if it is industrial solid waste, where it was generated); and types of incoming waste (i.e., commercial, residential, infectious). All facilities shall also be equipped with a device or method to control entry of the waste and prevent entry of unrecorded or unauthorized deliverables (i.e., hazardous waste, TSCA-regulated PCB waste, and unauthorized or unpermitted solid waste). At Type II landfills, this method shall include random inspections of incoming waste loads at a frequency to reasonably ensure exclusion of such prohibited wastes.

b. All facilities shall be equipped with a central control and recordkeeping system for tabulating the information required in Subparagraph B.6.a of this Section.

7. Discharges from operating units of all facilities shall be controlled and shall conform to applicable state and federal laws, including the federal Clean Water Act and Louisiana Water Pollution Control Law. Applications for applicable state and federal discharge permits shall be filed before a standard permit may be issued.

8. Additional information for facilities is required as follows:

a. areas for isolating nonputrescible waste or incinerator ash, and borrow areas; and

b. location of leachate collection/treatment/removal system.

C. Facility geology standards are located in LAC 33:VII.Chapter 8.

D. Implementation Plans. The implementation plans for all facilities shall include the following:

1. construction schedules for existing facilities, which shall include beginning and ending time frames and time frames for the installation of all major features such as monitoring wells and liners. Time frames shall be specified in days, with day one being the date of standard permit issuance;

2. details on phased implementation if any proposed facility is to be constructed in phases; and

3. a plan for closing and upgrading existing operating areas if the application is for expansion of a facility or construction of a replacement facility.

E. Groundwater monitoring requirements shall be in accordance with LAC 33:VII.Chapter 8.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), repromulgated LR 19:1315 (October 1993), amended by the Office of the Secretary, LR 24:2250 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2521 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2490 (October 2005), LR 33:1045 (June 2007).

§711. Standards Governing Landfills (Type I and II)

A. Surface Hydrology

1. Facilities located in a 100-year flood plain shall be filled to bring site elevation above flood levels, or perimeter levees or other measures must be provided to maintain adequate protection against a 100-year flood.

2. Facilities located in, or within 1,000 feet of, an aquifer recharge zone shall be designed to protect the areas from adverse impacts of operations at the facility.

3. Surface-runoff-diversion levees, canals, or devices shall be installed to prevent drainage from the units of the facility that have not received final cover. The proposed system shall be designed for a 24-hour/25-year storm event.

4. Facilities located in a 100-year flood plain shall not restrict the flow of a 100-year flood or significantly reduce the temporary water-storage capacity of the flood plain, and the design shall ensure that the flooding does not affect the integrity of the facility or result in the washout of solid waste so as to pose a threat to human health and the environment.

5. Runoff from operating areas or areas that contain solid waste and have not yet received interim compacted cover or final cover shall be considered contaminated and shall not be allowed to mix with noncontaminated surface runoff.

6. A run-on control system shall be installed to prevent run-on during the peak discharge from a 24-hour/25-year storm event.

B. Plans and Specifications

1. Facility plans, specifications, and operations represented and described in the permit application or permit modifications for all facilities shall be prepared under the

supervision of and certified by a professional engineer, licensed in the state of Louisiana.

2. Daily and Interim Cover Requirements

a. Cover material shall:

i. minimize vector-breeding areas and animal attraction by controlling:

(a). fly, mosquito, and other insect emergence and entrance;

(b). rodent burrowing for food and harborage; and

(c). bird and animal attraction;

ii. control leachate generation by:

(a). minimizing external-moisture infiltration;

(b). minimizing erosion; and

(c). utilizing materials with minimum free-liquid content;

iii. reduce fire-hazard potential;

iv. minimize blowing paper and litter;

v. reduce noxious odors by minimizing outward movement of methane and other gases;

vi. provide an aesthetic appearance to the landfill operation; and

vii. allow accessibility regardless of weather.

b. Silty or sandy clays applied a minimum of 6 inches thick at the end of each operating day are satisfactory for daily cover, and silty clays applied a minimum of 1 foot thick are satisfactory for interim cover.

c. Alternative daily cover, interim cover, or interim compacted cover materials may be approved by the administrative authority provided the standards of Subparagraph B.2.a of this Section are met. The administrative authority reserves the right to require testing to confirm acceptability. The administrative authority may waive the requirements for daily cover, for Type I landfills only, if the permit holder or applicant can demonstrate that the nature of the waste is such that daily cover is not necessary. Daily cover requirements may not be waived for Type II landfills.

d. Alternative daily cover, interim cover, and interim compacted cover materials submitted for approval shall be available on a regular basis and demonstrate reasonably consistent composition and performance characteristics.

e. Interim cover or interim compacted cover shall be applied on all operating areas of a facility that will not receive solid waste for a period longer than 60 days. Interim cover or interim compacted cover must be applied within 48 hours of the last receipt of solid waste in the operating area. Facilities that provide interim cover or interim compacted cover shall also implement an erosion control plan.

f. Daily and interim cover shall be applied and maintained in a condition that meets the purposes of Subparagraph B.2.a of this Section.

g. The source of daily and interim cover must be accessible regardless of weather.

3. Levee Construction

a. Levees or other protective measures shall be provided in order to protect the facility against a 100-year flood.

b. If levees are required to protect the facility against a 100-year flood, such perimeter levees shall be engineered to minimize wind and water erosion and shall

have a grass cover or other protective cover to preserve structural integrity and shall provide adequate protection against a 100-year flood.

4. Leachate Control, Collection, Treatment, and Removal Systems

a. Leachate shall not be managed by allowing the leachate to be absorbed in the waste, unless it is a part of leachate recirculation or other approved technology.

b. Infiltration of water into the waste shall be minimized by daily, interim, and final cover, as required by these regulations.

c. The impact of leachate on the environment shall be minimized by a leachate collection and removal system and a leachate treatment system designed to ensure positive removal and treatment of generated leachate.

d. Leachate removed shall be handled in such a manner that it does not adversely affect the environment.

e. Migration of leachate shall be prevented by liners or other barriers.

f. The following minimum standards apply to leachate collection and removal systems.

i. The leachate collection system shall be located above the primary liner.

ii. All leachate collection pipes shall be perforated, a minimum of 6 inches in diameter, and constructed of materials resistant to the leachate.

iii. Leachate cleanout risers or manholes shall be provided for each leachate collection line. The maximum length of leachate collection lines shall not exceed the capabilities of the cleanout device.

iv. A granular leachate collection drainage blanket, consisting of a natural or a synthetic material with permeability of 1×10^{-3} cm/sec or higher, shall be provided to trap fines and prevent waste from entering the drainage layer while allowing the passage of leachate. If natural material is used for the drainage blanket, the thickness of the material shall be at least 12 inches, unless otherwise approved by the administrative authority. If synthetic material is used, sufficient thickness of buffer material shall be placed over the synthetic material to provide protection for the liner system.

v. The flow path of leachate on the liner surface shall be no greater than 100 feet to the point of collection. (For the purpose of determining this distance, the permit holder or applicant may assume that the leachate flow path is perpendicular to the leachate collection pipe.)

vi. The slope on the surface of the liner toward the leachate collection lines shall be a minimum of two percent.

vii. The slope of all leachate collection pipes shall be a minimum of one percent.

viii. The leachate head shall be maintained in a pumped-down condition such that not more than 1 foot of head shall exist above the lowest elevation of the leachate collection lines.

ix. The equipment used to remove leachate from the collection system shall be adequately sized to accommodate normal facility operations.

x. Trenches or swales shall be provided to protect the leachate collection pipes.

xi. The leachate collection lines shall be sloped down toward the perimeter of the unit. However, other

designs may be approved depending on site-specific conditions.

xii. An adequate thickness of gravel shall be placed on all sides of the leachate pipes.

xiii. Gravel size shall be selected to ensure that it is larger than the perforations in the collection pipe.

xiv. The migration of fines into the tops of the trenches shall be minimized by a properly designed, graded soil filter or geotextile.

xv. Materials such as limestone and dolomite shall not be used in the leachate collection system. However, the administrative authority may allow alternate materials to be used in construction of the leachate collection system if the permit holder or applicant can demonstrate that the materials can provide equivalent or superior performance.

xvi. Leachate lines (and other engineering structures) shall not penetrate the liner, unless the permit holder or applicant can demonstrate that special or unusual circumstances warrant liner penetration.

xvii. An antiseep collar shall be placed around the leachate line that penetrates the liner. A minimum of 3 feet of recompacted clay or equivalent material shall be placed around the collar.

xviii. All leachate transfer (force-main) lines shall be pressure tested prior to their use.

xix. All control systems for pumps, valves, and meters shall be designed to be operated from the ground level.

5. Liners

a. The permit holder or applicant shall provide and implement a quality-assurance/quality-control plan for liner construction and maintenance that will ensure that liners are designed, constructed, installed, and maintained properly. All facilities shall have quality-assurance/quality-control plans for the excavations. All excavations and liners shall be inspected and certified by a professional engineer, licensed in the state of Louisiana, with the appropriate expertise.

b. The permit holder or applicant must demonstrate that the liner is placed upon a base that provides the following:

i. adequate support for the contents;

ii. maximum resistance to settlement of a magnitude sufficient to affect the integrity of the liner or the proper positioning of the leachate collection or leak-detection system;

iii. maximum resistance to hydrostatic heave on the sides or bottom of the excavation; and

iv. maximum resistance to desiccation.

c. Units of landfills shall be lined along the sides and bottom with a liner system installed under the supervision of a professional engineer, licensed in the state of Louisiana and with the appropriate expertise, which consists of the following, in descending order:

i. a leachate collection system designed and constructed in accordance with Paragraph B.4 of this Section; and

ii. a composite liner that consists of a geomembrane liner at least 30-mil thick installed directly above and in uniform contact with a 3-foot recompacted clay liner having a hydraulic conductivity no greater than 1×10^{-7} cm/sec (If the geomembrane component is high-density polyethylene, then the geomembrane component must be at

least 60-mil thick. Any geomembrane liner used must be compatible with the solid waste and leachate in the unit.); or

iii. an alternative liner system that provides equivalent or greater groundwater protection at the site as compared to the composite liner design in Clause B.5.c.ii of this Section, as demonstrated by generally accepted modeling techniques and based on factors specific to the site and to the solid wastes received. The burden of proof of adequacy of the alternate liner design shall be on the permit holder or applicant.

d. Special design conditions may be required in areas where circumstances warrant such conditions, as determined by the administrative authority. These special design standards may include more protective or stringent standards.

6. Gas Collection/Treatment or Removal System

a. Each unit of the facility with a potential for methane gas production and migration may be required to provide a gas collection/treatment or removal system.

b. If the facility is subject to 40 CFR Part 60, Subpart WWW, then installation of a collection and control system that captures generated gas within the landfill is required.

c. If the facility is not subject to 40 CFR Part 60, Subpart WWW, a gas collection/treatment or removal system shall be such that it limits methane gas to lower-explosive limits at the facility boundary and to 25 percent of the lower explosive limits in facility buildings.

d. Sampling protocol, chain of custody, and test methods shall be established for all gas collection/treatment or removal systems.

C. Facility Administrative Procedures

1. Reports

a. The permit holder shall submit annual reports to the Office of Management and Finance, Financial Services Division, indicating quantities and types of solid waste (expressed in wet-weight tons per year, or for landfills, expressed in both wet- and dry-weight tons per year), received from in-state generators and from out-of-state generators, during the reporting period. The annual disposer's report shall also indicate the estimated remaining permitted capacity at the facility as of the end of the reporting period (expressed in wet-weight tons). All calculations used to determine the amounts of solid waste received for disposal during the annual-reporting period and to determine remaining capacity shall be submitted to the Office of Management and Finance, Financial Services Division. A form to be used for this purpose shall be obtained from the Office of Management and Finance, Financial Services Division, or through the department's website.

b. The reporting period for the disposer annual report shall be from July 1 through June 30, commencing July 1, 1992, and terminating upon closure of the facility in accordance with the permit.

c. Annual reports shall be submitted to the Office of Management and Finance, Financial Services Division, by August 1 of each reporting year.

d. The annual report is to be provided for each individual permitted facility on a separate annual reporting form.

e. A facility that receives industrial solid waste shall utilize, in its annual report, the appropriate industrial waste code number.

2. Recordkeeping

a. The permit holder shall maintain at the facility all records specified in the application as necessary for the effective management of the facility and for preparing the required reports. These records shall be maintained for the life of the facility and shall be kept on file for at least three years after closure.

b. The permit holder shall maintain records of transporters transporting waste for processing or disposal at the facility. The records shall include the date of receipt of shipments of waste and the transporter's solid waste identification number issued by the administrative authority.

c. Records kept on site for all facilities shall include, but not be limited to:

- i. copies of the applicable Louisiana solid waste rules and regulations;
- ii. the permit;
- iii. the permit application;
- iv. permit modifications;
- v. certified field notes for construction;
- vi. operator training programs;
- vii. daily log;
- viii. quality-assurance/quality-control records;
- ix. inspections by the permit holder or operator, including, but not limited to, inspections to detect incoming hazardous waste loads;

x. operator certificates from the Board of Certification and Training for Solid Waste Disposal System Operators, if applicable;

xi. records demonstrating that liners, leachate-control systems, and leak-detection and cover systems are constructed or installed in accordance with appropriate quality assurance procedures;

xii. records on the leachate volume and results of the leachate sampling;

xiii. monitoring, testing, or analytical data;

xiv. any other applicable or required data deemed necessary by the administrative authority;

xv. records on groundwater sampling results;

xvi. post-closure monitoring reports; and

xvii. copies of all documents received from and submitted to the department.

3. Personnel

a. Facilities shall have the personnel necessary to achieve the operational requirements of the facility. All personnel involved in waste handling at the facility must be trained adequately in procedures to recognize and exclude receipt or disposal of hazardous wastes and PCB wastes.

b. Facilities receiving residential and commercial solid waste shall have the numbers and levels of certified operators employed at the facility as required by the department in accordance with LAC 46:Part XXIII. Operator certificates shall be prominently displayed at the facility. The Board of Certification and Training for Solid Waste Disposal System Operators and the Office of Environmental Services, Waste Permits Division, shall be notified within 30 days of any changes in the employment status of certified operators.

D. Facility Operations

1. Facility Limitations

a. The receipt of hazardous waste and TSCA-regulated PCB waste shall be strictly prohibited and prevented. Permit holders of Type II landfills must implement a program of random inspections of incoming loads to detect and prevent the disposal of hazardous waste or PCB waste and must keep records of these inspections. Any other wastes that present special handling or disposal problems may be excluded by the administrative authority.

b. Open burning of solid waste shall not be practiced at Type I or II landfills.

c. Salvaging shall be prevented unless approved by the administrative authority.

d. Scavenging shall be prevented.

e. Infectious waste from hospitals or clinics may be deposited in Type I or II landfills only if it has been properly packaged and identified and is treated by a method approved by the Department of Health and Hospitals.

f. Grazing of domestic livestock shall not be allowed in the vicinity of active landfill units or units under closure or post closure.

g. Except as otherwise provided in this Subparagraph, liquid wastes shall not be disposed of in a landfill, and facilities that plan to accept liquid wastes shall provide a means for solidifying them and an appropriate quality-assurance/quality-control program. The only bulk or non-containerized liquid that may be placed in a landfill is residential waste (excluding septic waste), leachate and gas condensate that is derived from the landfill, and liquid from a leachate recirculation operation.

h. Residential, commercial, and other wastes deemed acceptable by the administrative authority on a site-specific basis may be disposed of in Type I and II landfills. A comprehensive quality-assurance/quality-control plan shall be provided for facilities receiving asbestos-containing waste and dewatered domestic wastewater treatment plant sludge.

i. No solid waste shall be deposited in standing water.

j. Industrial solid waste, incinerator ash, and nonhazardous petroleum-contaminated media and debris generated by underground storage tanks (UST) corrective action shall be disposed of or processed only in Type I or Type I-A facilities. A comprehensive quality-assurance/quality-control plan shall be in place before the receipt of these wastes.

2. Facility Operational Plans. Operational plans shall be provided that describe in specific detail how the waste will be managed during all phases of disposal operations. At a minimum, the plan shall address:

a. the route the waste will follow after receipt;

b. the sequence in which the waste will be processed or disposed of within a unit;

c. the method and operational changes that will be used during wet weather (Particular attention shall be given to maintenance of access roads and to water management.);

d. the recordkeeping procedures to be employed to ensure that all pertinent activities are properly documented;

e. the sampling protocol, chain of custody, and test methods that will be used in the gas-monitoring systems;

f. the methods that will be used to ensure that the grade and slope of both the on-site drainage system and the

run-on diversion system are maintained and serve their intended functions;

g. the methods that will be used to ensure that the leachate collection/treatment system is functioning as designed; and

h. the measuring protocol to be used and the frequency with which the depth of leachate within the collection system will be checked, as well as how the leachate will be removed and transported to the treatment facility.

3. Facility Operational Standards

a. Air-Monitoring Standards

i. Facilities receiving waste with a potential to produce methane gas shall be subject to the air-monitoring requirements.

ii. The permit holder or applicant subject to air-monitoring requirements shall submit to the Office of Environmental Services, Waste Permits Division, a comprehensive air-monitoring plan that will limit methane gas levels to less than the lower-explosive limits at the facility boundary and to 25 percent of the lower-explosive limits in facility buildings.

(a). The type and frequency of monitoring shall be determined based on the following factors:

(i). soil conditions;

(ii). hydrogeologic conditions surrounding the facility;

(iii). hydraulic conditions surrounding the facility; and

(iv). the locations of facility structures and property boundaries.

(b). The minimum frequency of monitoring shall be quarterly.

iii. If methane gas levels exceeding the limits specified in Clause D.3.a.ii of this Section are detected, the permit holder shall:

(a). immediately take all necessary steps to ensure protection of human health and notify the Office of Environmental Compliance in the manner provided in LAC 33:I.3923;

(b). within 30 days of detection, submit a remediation plan to the Office of Environmental Assessment, Environmental Technology Division, for the methane gas releases. The plan shall describe the nature and extent of the problems and the proposed remedy and shall include an implementation schedule. The plan shall be implemented within 60 days of detection.

iv. The permit holder shall make prompt notification to the Office of Environmental Compliance in accordance with LAC 33:I.3923 when strong odors occur at facility boundaries.

v. Records of inspections, surveys, and gas monitoring results shall be maintained at the facility.

vi. Odors shall be controlled by the best means practicable.

vii. Facilities shall ensure that the units do not violate any applicable requirements developed under a state implementation plan (SIP) approved or promulgated in accordance with Section 110 of the Clean Air Act, as amended.

b. Waste shall be deposited under facility supervision in the smallest practicable area, spread in layers,

and compacted to approximately two feet thick or, if baled, stacked and daily cover applied.

c. Vector Control

i. Food or harborage shall be denied to rats, insects, and birds to the extent possible by using proper cover or other means acceptable on a site-specific basis. Where necessary, an approved pesticide shall be applied in accordance with applicable state and federal laws.

ii. A schedule of the type and frequency of vector control measures to be used shall be submitted to the Office of Environmental Services, Waste Permits Division, for approval in the operational plan.

d. Waste Characterization. Hazardous waste determination, in accordance with LAC 33:V.1103, shall be performed by the generator on all solid waste going to disposal facilities, prior to acceptance of the solid waste and annually for two years following acceptance. Every year thereafter, the generator shall certify that the waste remains unchanged.

4. Sufficient equipment shall be provided and maintained at all facilities to meet the facilities' operational needs.

5. Segregation of Wastes

a. White goods may be stored in a unit separate from other solid wastes and shall be removed every 30 days. The facility shall maintain a log of dates and volumes of white goods removed from the facility.

b. Tree limbs, leaves, clippings, and similar residues may be segregated and deposited in a permitted unit separate from other solid waste and shall be covered every 30 days, or more often if necessary to control blowing and prevent rodent harborage.

c. Construction material and woodwastes may be deposited in a permitted unit separate from other solid wastes and covered every 30 days. This unit must meet the standards provided in LAC 33:VII.719 and 721.

6. Facility Operations, Emergency Procedures, and Contingency Plans

a. A plan outlining facility operations and emergency procedures to be followed in case of accident, fire, explosion, or other emergencies shall be developed and filed with the Office of Environmental Services, Waste Permits Division, and with the local fire department and the closest hospital or clinic. The plans shall be updated annually or when implementation demonstrates that a revision is needed.

b. Training sessions concerning the procedures outlined in Subparagraph D.6.a of this Section shall be conducted annually for all employees working at the facility. A copy of the training program shall be filed with the Office of Environmental Services, Waste Permits Division.

c. Applicants for Type I facilities shall submit certifications from local public service entities.

i. Certifications shall be submitted from the local:

(a). fire department as to whether or not that department has the ability to meet the response requirements of Section 472 of the Life Safety Code of the National Fire Protection Association;

(b). emergency medical services agency as to whether or not that agency has the ability to meet the

response requirements of Section 473 of the Life Safety Code of the National Fire Protection Association; and

(c). hospital as to whether it is able to accept and treat patients who are contaminated with hazardous materials.

ii. In the event any such local public service entity cannot certify that it is able to meet the requirements of Clause D.6.c.i of this Section, the applicant for a Type I facility shall identify in the permit application the closest fire department, emergency medical services agency, and hospital that can provide the services listed in Clause D.6.c.i of this Section.

iii. The requirements of Clauses D.6.c.i and ii of this Section shall not apply if the applicant for a Type I facility has the ability to meet the response requirements of Section 472 of the Life Safety Code of the National Fire Protection Association.

d. Applicants for Type II facilities shall submit certifications from local public service entities.

i. Certifications shall be submitted from the local:

(a). fire department and emergency medical services agency regarding their compliance with 29 CFR 1910.120; and

(b). hospital as to whether it is able to accept and treat patients who are contaminated with hazardous materials.

ii. In the event any such local public service entity cannot certify that it is able to meet the requirements of Clause D.6.d.i of this Section, the applicant for a Type II facility shall identify in the permit application the closest fire department, emergency medical services agency, and hospital that can provide the services listed in Clause D.6.d.i of this Section.

iii. The provisions of this Subparagraph shall not apply to a Type I facility that is also a Type II facility.

e. Facility operators for a Type II facility shall be trained in awareness and hazardous waste operations in accordance with 29 CFR 1910.120.

E. Facility Closure Requirements

1. Notification of Intent to Close a Facility. All permit holders shall notify the Office of Environmental Services, Waste Permits Division, in writing at least 90 days before closure or intent to close, seal, or abandon any individual units within a facility and shall provide the following information:

- a. the date of the planned closure;
- b. changes, if any, requested in the approved closure plan; and
- c. the closure schedule and estimated cost.

2. Preclosure Requirements

a. Final cover installation shall be initiated no later than 30 days after and shall be completed no later than 90 days after final grades are reached in each unit of a facility or the date of known final receipt of solid waste in the unit, whichever comes first. These deadlines may be extended by the administrative authority if necessary due to inclement weather or other circumstances to a maximum of 60 days for initiation and a maximum of 180 days for completion.

b. Standing water shall be solidified or removed.

c. The runoff-diversion system shall be maintained until the final cover is installed.

d. The runoff-diversion system shall be maintained and modified to prevent overflow of the landfill to adjoining areas.

e. Insect and rodent inspection is required to be documented before installation of final cover, and extermination measures must be provided if required as a result of the facility inspection.

f. Final compaction and grading shall be completed before capping.

g. All facilities with a potential for gas production or migration shall provide a gas collection/treatment or removal system.

3. Closure Requirements

a. Final Cover

i. Final cover shall be placed on top of the daily or intermediate cover that is used as the grading layer to provide a stable base for subsequent layers.

ii. Final cover shall be a minimum of 24 inches of recompacted clay with a permeability of less than 1×10^{-7} cm/sec overlain with an approved geomembrane covering the entire area. Areas that are steeper than 4:1 slope do not require geomembrane overlay.

iii. The Office of Environmental Compliance, Surveillance Division, shall be notified after the final cover is applied.

iv. A minimum of 6 inches of topsoil shall be placed on top of the soil cover to support vegetative growth to prevent erosion.

v. Other covers that satisfy the purposes of minimizing infiltration of precipitation, fire hazards, odors, vector food and harborage, as well as discouraging scavenging and limiting erosion, may be submitted for consideration by the administrative authority.

vi. Alternate final cover used in accordance with Clause E.3.a.v of this Section must provide performance equivalent to or better than the final cover requirements in Clauses E.3.a.ii and iv of this Section.

vii. The side slopes shall be no steeper than 3(H):1(V) and the top of the final cap shall be at minimum a four percent slope, for proper maintenance and drainage.

b. After a closure inspection and approval, the permit holder shall plant a ground cover to prevent erosion and to return the facility location to a more natural appearance.

c. Landfills must be closed in a manner that minimizes the need for further maintenance and minimizes the post-closure release of leachate to groundwaters or surface waters to the extent necessary to protect human health and the environment. Quality-assurance/quality-control procedures shall be developed and implemented to ensure that the final cover is designed, constructed, and installed properly.

d. The permit holder shall update the parish mortgage and conveyance records by recording the specific location of the facility and specifying that the property was used for the disposal of solid waste. The document shall identify the name and address of the person with knowledge of the contents of the facility. An example of the form to be used for this purpose is provided in LAC 33:VII.3011.Appendix F. The facility shall provide the Office of Environmental Services, Waste Permits Division,

with a true copy of the document filed and certified by the parish clerk of court.

4. Upon determination by the administrative authority that a facility has completed closure in accordance with an approved plan, the administrative authority shall release the closure fund to the permit holder. The permit holder shall submit a request for the release of this fund to the Office of Management and Finance, Financial Services Division.

F. Facility Post-Closure Requirements

1. The post-closure period begins when the Office of Environmental Services, Waste Permits Division, approves closure. The length of the post-closure care period for landfills may be:

a. decreased by the administrative authority if the permit holder demonstrates that the reduced period is sufficient to protect human health and the environment in accordance with LAC 33:I.Chapter 13, and this demonstration is approved by the administrative authority (Any demonstration must provide supporting data, including adequate groundwater monitoring data.); or

b. increased by the administrative authority if the administrative authority determines that the lengthened period is necessary to protect human health and the environment in accordance with LAC 33:I.Chapter 13.

2. Post-Closure Care Length

a. Facilities that receive solid waste on or after October 9, 1993, must remain in post-closure care for 30 years after closure of the facility.

b. Existing facilities that do not receive waste on or after October 9, 1993, must remain in post-closure care for three years after closure of the facility.

c. However, if the facility received waste on or after October 9, 1991, the final cover must be maintained as specified in Subparagraph F.3.a of this Section for 30 years after closure.

3. The post-closure care, except as otherwise specified above, must consist of at least the following:

a. maintaining the integrity and effectiveness of the final cover (including making repairs to the cover as necessary to correct the effects of settling, subsidence, erosion, or other events), preventing run-on and runoff from eroding or otherwise damaging the final cover; and providing annual reports to the Office of Environmental Services, Waste Permits Division, on the integrity of the final cap (The Office of Environmental Compliance, Environmental Technology Division, shall be notified of any problems and corrective action measures associated with the integrity and effectiveness of the final cover.);

b. maintaining and operating the leachate collection and removal system, until leachate is no longer generated or until the permit holder can demonstrate that the leachate no longer poses a threat to human health or the environment in accordance with LAC 33:I.Chapter 13;

c. maintaining and operating the gas collection/treatment or removal system and the gas-monitoring system; and

d. maintaining the groundwater-monitoring system and monitoring the groundwater in accordance with LAC 33:VII.805.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 19:1143 (September 1993), repromulgated LR 19:1316 (October 1993), amended by the Office of the Secretary, LR 24:2251 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2523 (November 2000), repromulgated LR 27:704 (May 2001), amended LR 30:1676 (August 2004), amended by the Office of Environmental Assessment, LR 30:2024 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2492 (October 2005), LR 33:1047 (June 2007).

§713. Standards Governing Surface Impoundments (Type I and II)

A. Surface Hydrology

1. Facilities located in a 100-year flood plain shall be filled to bring site elevation above flood levels, or perimeter levees or other measures must be provided to maintain adequate protection against a 100-year flood.

2. Facilities located in, or within 1,000 feet of, an aquifer recharge zone shall be designed to protect the areas from adverse impacts of operations at the facility.

3. Surface-runoff-diversion levees, canals, or devices shall be installed to prevent drainage from the units of the facility that have not received final cover. The proposed system must be designed for a 24-hour/25-year storm event. Adequate freeboard shall be provided to prevent overtopping by wave action.

4. Facilities located in a 100-year flood plain shall not restrict the flow of the 100-year flood or significantly reduce the temporary water-storage capacity of the flood plain, and the design shall ensure that the flooding does not affect the integrity of the facility or result in the washout of solid waste so as to pose a threat to human health and the environment.

5. Surface run-on from outside the facility shall be diverted and prevented from entering the facility, with provisions for maintaining adequate freeboard above the requirements of Paragraph A.1 of this Section. A run-on control system shall be installed to prevent run-on during the peak discharge from a 24-hour/25-year storm event.

6. Existing surface impoundments, including existing ditches that receive solid waste, that are designed to collect or transport run-on (e.g., storm water) are not required to comply with any of the requirements of LAC 33:VII.713.A.3, 4, and 5. This Subsection does not relieve such facilities from compliance with the Louisiana water quality regulations (LAC 33:Part IX).

B. Plans and Specifications

1. Facility plans, specifications, and operations represented and described in the permit application or permit modifications for all facilities shall be prepared under the supervision of and certified by a professional engineer, licensed in the state of Louisiana.

2. Levee Construction

a. Levees or other protective measures must be provided in order to protect the facility against a 100-year flood.

b. If levees are required to protect the facility against a 100-year flood, such perimeter levees shall be engineered to minimize wind and water erosion and shall have a grass cover or other protective cover to preserve structural integrity and shall provide adequate protection against a 100-year flood.

3. Liners

a. Liners for Type I and II proposed surface impoundments and for surface impoundments constructed subsequent to December 31, 1997, must comply with these standards. (Units of surface impoundments on which construction is completed prior to December 31, 1997, and that have received a temporary permit or standard permit prior to February 1, 1993, are not governed by these liner standards.)

b. The permit holder or applicant shall provide and implement a quality-assurance/quality-control plan for liner construction and maintenance that will ensure that liners are designed, constructed, installed, and maintained properly. All facilities shall have quality-assurance/quality-control plans for the excavations. All excavations and liners shall be inspected and certified by a professional engineer, licensed in the state of Louisiana, with the appropriate expertise.

c. The permit holder or applicant must demonstrate that the liner is placed upon a base that provides the following:

- i. adequate support for the contents;
- ii. maximum resistance to settlement of a magnitude sufficient to affect the integrity of the liner or the proper positioning of the leachate-collection or leak-detection system;
- iii. maximum resistance to hydrostatic heave on the sides or bottom of the excavation; and
- iv. maximum resistance to desiccation.

d. Units of surface impoundments shall be lined along the sides and bottom with a composite liner consisting of a geomembrane liner at least 30-mil thick installed directly above and in uniform contact with a 3-foot recompacted clay liner having a hydraulic conductivity no greater than 1×10^{-7} cm/sec that has been installed under the supervision of a professional engineer, licensed in the state of Louisiana and with the appropriate expertise. (If the geomembrane component is high-density polyethylene, then the geomembrane component must be at least 60-mil thick. Any geomembrane liner used must be compatible with the solid waste and leachate in the unit.) An alternative liner system that provides equivalent or greater groundwater protection at the site as compared to the composite liner, as demonstrated by generally accepted modeling techniques and based on factors specific to the site and to the solid wastes received, may be used. The burden of proof of adequacy of the alternate liner design shall be on the permit holder or applicant.

e. Special design conditions may be required in areas where circumstances warrant such conditions, as determined by the administrative authority. These special design standards may include more protective or stringent standards.

4. Gas Collection/Treatment or Removal System. The following standards apply to Type I and II surface impoundments not performing clean closure.

a. Each unit of the facility with a potential for methane gas production and migration shall be required to provide a gas collection/treatment or removal system.

b. If the facility is subject to 40 CFR Part 60, Subpart WWW, then installation of a collection and control system that captures generated gas within the surface impoundment is required.

c. If the facility is not subject to 40 CFR Part 60, Subpart WWW, a gas collection/treatment or removal system shall be such that it limits methane gas to lower-explosive limits at the facility boundary and to 25 percent of the lower-explosive limits in facility buildings.

d. Sampling protocol, chain of custody, and test methods shall be established for all gas collection/treatment or removal systems.

C. Facility Administrative Procedures

1. Reports

a. The permit holder shall submit annual reports to the Office of Management and Finance, Financial Services Division, indicating quantities and types of solid waste (expressed in wet-weight tons per year), received from in-state generators and from out-of-state generators, during the reporting period. If applicable, the annual disposer's report shall also indicate the estimated remaining permitted capacity at the facility as of the end of the reporting period (expressed in wet-weight tons). All calculations used to determine the amounts of solid waste received for disposal and to determine remaining capacity during the annual-reporting period shall be submitted to the Office of Management and Finance, Financial Services Division. A form to be used for this purpose shall be obtained from the Office of Management and Finance, Financial Services Division, or through the department's website.

b. The reporting period for the processor and/or disposer annual report shall be from July 1 through June 30, commencing July 1, 1992, and terminating upon closure of the facility in accordance with the permit.

c. Annual reports shall be submitted to the Office of Management and Finance, Financial Services Division, by August 1 of each reporting year.

d. The annual report is to be provided for each individual permitted facility on a separate annual-reporting form.

e. A facility that receives industrial solid waste shall utilize, in its annual report, the appropriate industrial waste code number.

2. Recordkeeping

a. The permit holder shall maintain at the facility all records specified in the application as necessary for the effective management of the facility and for preparing the required reports. These records shall be maintained for the life of the facility and shall be kept on file for at least three years after closure.

b. The permit holder shall maintain records of transporters transporting waste for processing or disposal at the facility. The records shall include the date of receipt of shipments of waste and the transporter's solid waste identification number issued by the administrative authority.

c. Records kept on site for all facilities shall include, but not be limited to:

- i. copies of the applicable Louisiana solid waste rules and regulations;
- ii. the permit;
- iii. the permit application;
- iv. permit modifications;
- v. certified field notes for construction;
- vi. operator training programs;
- vii. daily log;
- viii. quality-assurance/quality-control records;

- ix. inspections by the permit holder or operator;
- x. operator certificates from the Board of Certification and Training for Solid Waste Disposal System Operators, if applicable;
- xi. records demonstrating that liners and leak-detection and cover systems are constructed or installed in accordance with appropriate assurance procedures;
- xii. monitoring, testing, or analytical data;
- xiii. any other applicable or required data deemed necessary by the administrative authority;
- xiv. records on groundwater sampling results;
- xv. post-closure monitoring reports; and
- xvi. copies of all documents received from or submitted to the department.

3. Personnel

- a. Facilities shall have the personnel necessary to achieve the operational requirements of the facility.
- b. Facilities receiving residential and commercial solid waste shall have the numbers and levels of certified operators employed at the facility as required by the department in accordance with LAC 46:Part XXIII. Operator certificates shall be prominently displayed at the facility. The Board of Certification and Training for Solid Waste Disposal System Operators and the Office of Environmental Services, Waste Permits Division, shall be notified within 30 days of any changes in the employment status of certified operators.

D. Facility Operations

1. Facility Limitations

- a. The receipt of hazardous waste shall be strictly prohibited and prevented. Any other wastes that present special handling or disposal problems may be excluded by the administrative authority.
- b. Open burning shall not be practiced unless authorization is first obtained from the administrative authority and any other applicable federal, state, and local authorities.
- c. Salvaging shall be prevented unless approved by the administrative authority.
- d. Scavenging shall be prevented.

2. Facility Operational Plans. Operational plans shall be provided that describe in specific detail how the waste will be managed during all phases of disposal operations. At a minimum, the plan shall address:

- a. the route the waste will follow after receipt;
- b. the sequence in which the waste will be processed or disposed of within a unit;
- c. the method and operational changes that will be used during wet weather (Particular attention shall be given to maintenance of access roads and to water management.);
- d. the recordkeeping procedures to be employed to ensure that all pertinent activities are properly documented;
- e. the sampling protocol, chain of custody, and test methods that will be used in the gas-monitoring systems;
- f. the methods that will be used to ensure that the grade and slope of both the on-site drainage system and the run-on diversion system are maintained and serve their intended functions;
- g. the methods that will be used to ensure that the designed capacity of the impoundment remains unchanged; and

- h. the methods and inspection frequencies that will be used to establish that the levees and required freeboards are maintained.

3. Facility Operational Standards

a. Air-Monitoring Standards

- i. Facilities receiving waste with a potential to produce methane gas shall be subject to the air-monitoring requirements.

ii. The permit holder or applicant subject to air-monitoring requirements shall submit to the Office of Environmental Services, Waste Permits Division, a comprehensive air-monitoring plan that will limit methane gas levels to less than the lower-explosive limits at the facility boundary and to 25 percent of the lower-explosive limits in facility buildings.

(a). The type and frequency of monitoring shall be determined based on the following factors:

- (i). soil conditions;
- (ii). hydrogeologic conditions surrounding the facility;
- (iii). hydraulic conditions surrounding the facility; and
- (iv). the locations of the facility structures and property boundaries.

(b). The minimum frequency of monitoring shall be quarterly.

iii. If methane gas levels exceeding the limits specified in Clause D.3.a.ii of this Section are detected, the owner or operator shall:

(a). immediately take all necessary steps to ensure protection of human health and notify the Office of Environmental Compliance in the manner provided in LAC 33:I.3923; and

(b). within 30 days of detection, submit a remediation plan for the methane gas releases to the Office of Environmental Assessment, Environmental Technology Division. The plan shall describe the nature and extent of the problem and the proposed remedy, and shall include an implementation schedule. The plan shall be implemented within 60 days of detection.

iv. The permit holder shall make prompt notification to the Office of Environmental Compliance in accordance with LAC 33:I.3923 when strong odors occur at facility boundaries or when methane gas levels exceed the limit specified in Clause D.3.a.ii of this Section.

v. Records of inspections, surveys, and gas monitoring results shall be maintained at the facility.

vi. Odors shall be controlled by the best means practicable.

vii. Facilities shall ensure that the units not violate any applicable requirements developed under a state implementation plan (SIP) approved or promulgated in accordance with Section 110 of the Clean Air Act, as amended.

b. Surface impoundments shall be designed, constructed, maintained, and operated to prevent overtopping by overfilling, wave action, or action of storms.

c. Surface impoundments shall be inspected daily and after storms to detect evidence of deterioration of the dikes and levees, overtopping, malfunctions, or improper

operation. Excessive vegetative growth that prevents proper access, inspection, or operation, or may provide a conduit for groundwater contamination shall be removed.

d. If a leak in an impoundment is found, the administrative authority shall be notified in accordance with LAC 33:I.Chapter 39.

e. Waste Characterization. Hazardous waste determination, pursuant to LAC 33:V.1103, shall be performed by the generator on all solid waste going to disposal facilities, prior to acceptance of the solid waste and annually for two years following acceptance. Every year thereafter, the generator shall certify that the waste remains unchanged.

4. Sufficient equipment shall be provided and maintained at all facilities to meet the facilities' operational needs.

5. Facility Operations, Emergency Procedures, and Contingency Plans

a. A plan outlining facility operations and emergency procedures to be followed in case of accident, fire, explosion, or other emergencies shall be developed and filed with the Office of Environmental Services, Waste Permits Division, and with the local fire department and the closest hospital or clinic. The plans shall be updated annually or when implementation demonstrates that a revision is needed.

b. Training sessions concerning the procedures outlined in Subparagraph D.5.a of this Section shall be conducted annually for all employees working at the facility. A copy of the training program shall be filed with the Office of Environmental Services, Waste Permits Division.

c. Applicants for Type I facilities shall submit certifications from local public service entities.

i. Certifications shall be submitted from the local:

(a). fire department as to whether or not that department has the ability to meet the response requirements of Section 472 of the Life Safety Code of the National Fire Protection Association;

(b). emergency medical services agency as to whether or not that agency has the ability to meet the response requirements of Section 473 of the Life Safety Code of the National Fire Protection Association; and

(c). hospital as to whether it is able to accept and treat patients who are contaminated with hazardous materials.

ii. In the event any such local public service entity cannot certify that it is able to meet the requirements of Clause D.5.c.i of this Section, the applicant for a Type I facility shall identify in the permit application the closest fire department, emergency medical services agency, and hospital that can provide the services listed in Clause D.5.c.i of this Section.

iii. The requirements of Clauses D.5.c.i and ii of this Section shall not apply if the applicant for a Type I facility has the ability to meet the response requirements of Section 472 of the Life Safety Code of the National Fire Protection Association.

d. Applicants for Type II facilities shall submit certifications from local public service entities.

i. Certifications shall be submitted from the local:

(a). fire department and emergency medical services agency regarding their compliance with 29 CFR 1910.120; and

(b). hospital as to whether it is able to accept and treat patients who are contaminated with hazardous materials.

ii. In the event any such local public service entity cannot certify that it is able to meet the requirements of Clause D.5.d.i of this Section, the applicant for a Type II facility shall identify in the permit application the closest fire department, emergency medical services agency, and hospital that can provide the services listed in Clause D.5.d.i of this Section.

iii. The provisions of this Subparagraph shall not apply to a Type I facility that is also a Type II facility.

e. Facility operators for a Type II facility shall be trained in awareness and hazardous waste operations in accordance with 29 CFR 1910.120.

E. Facility Closure Requirements

1. Notification of Intent to Close a Facility. All permit holders shall notify the Office of Environmental Services, Waste Permits Division, in writing at least 90 days before closure or intent to close, seal, or abandon any individual units within a facility and shall provide the following information:

- a. the date of the planned closure;
- b. changes, if any, requested in the approved closure plan; and
- c. the closure schedule and estimated cost.

2. Preclosure Requirements. The following standards apply to preclosure requirements for surface impoundments with on-site closure.

a. All facilities with a potential for gas production or migration shall provide a gas collection/treatment or removal system.

b. The runoff-diversion system shall be maintained and modified to prevent overflow of the facility to adjoining areas.

3. Closure Requirements

a. Surface liquids and sludges containing free liquids shall be dewatered or removed.

b. If a clean closure is achieved, there are no further post-closure requirements. The closure plan shall reflect a method for determining that all waste has been removed and such a plan shall, at a minimum, include the following:

i. identification (waste analysis) of the wastes that have entered the facility;

ii. selection of the indicator parameters to be sampled that are intrinsic to the wastes that have entered the facility in order to establish clean-closure criteria. Justification of the parameters selected shall be provided in the closure plan;

iii. sampling and analyses of the uncontaminated soils in the general area of the facility for a determination of background levels using the indicator parameters selected. A diagram showing the location of the area proposed for the background sampling, along with a description of the sampling and testing methods, shall be provided and the Office of Environmental Compliance, Surveillance Division, shall be notified at least five days prior to any sampling event;

iv. a discussion of the sampling and analyses of the "clean" soils for the selected parameters after the waste and contaminated soils have been excavated. Documentation regarding the sampling and testing methods (i.e., including a plan view of the facility, sampling locations, and sampling quality-assurance/quality-control programs) shall be provided;

v. a discussion of a comparison of the samples from the area of the excavated facility to the background samples, or applicable RECAP standards. Concentrations of the selected parameters of the bottom and side soil samples of the facility shall be equal to or less than the background samples or applicable RECAP non-industrial standards to meet clean closure criteria;

vi. analyses to be sent to the Office of Environmental Services, Waste Permits Division, confirming that clean closure has been achieved;

vii. identification of the facility to be used for the disposal of the excavated waste; and

viii. a statement from the permit holder indicating that, after the closure requirements have been met, the permit holder will file a request for a closure inspection with the Office of Environmental Services, Waste Permits Division, before backfilling takes place. The administrative authority shall determine whether the facility has been closed properly.

c. If solid waste remains at the facility a final cover shall be required that meets the following standards.

i. Final cover shall be a minimum of 24 inches of recompacted clay with a permeability of less than 1×10^{-7} cm/sec overlain with an approved geomembrane covering the entire area. Areas that are steeper than 4:1 slope do not require geomembrane overlay.

ii. The Office of Environmental Compliance, Surveillance Division, shall be notified after the final cover is applied.

iii. A minimum of 6 inches of topsoil shall be placed on top of the soil cover to support vegetative growth to prevent erosion.

iv. Other covers that satisfy the purposes of minimizing infiltration of precipitation, fire hazards, odors, vector food and harborage, as well as discouraging scavenging and limiting erosion, may be submitted for consideration and approval by administrative authority.

v. Alternate final cover used in accordance with Clause E.3.c.iv of this Section must provide performance equivalent to or better than the final cover requirements in Clauses E.3.c.i and iii of this Section.

vi. The finished grade shall be sufficiently sloped for proper maintenance and drainage.

vii. All facilities with a potential for gas production or migration shall provide a gas collection/treatment or removal system.

d. After a closure inspection and approval, the permit holder shall plant a ground cover to prevent erosion and to return the facility location to a more natural appearance.

e. Surface impoundments shall be closed in a manner that minimizes the need for further maintenance and minimizes the post-closure release of leachate to groundwaters or surface waters to the extent necessary to protect human health and the environment. Quality-

assurance/quality-control procedures shall be developed and implemented to ensure that the final cover is designed, constructed, and installed properly.

4. Alternate Closure Standards. The administrative authority may allow alternative closure under the following conditions.

a. If levels of contamination at the time of closure meet non-industrial standards as specified in LAC 33:I.Chapter 13 and approval of the administrative authority is granted, the requirements of Subparagraph E.4.b and Subsection F of this Section shall not apply.

b. If levels of contamination at the time of closure meet industrial standards as specified in LAC 33:I.Chapter 13 and approval of the administrative authority is granted, the requirements of this Paragraph and Subsection F of this Section shall apply.

5. With the exception of those sites clean closed or closed in accordance with Subparagraph E.4.a of this Section, within 90 days after a closure is completed, the permit holder shall have entered in the mortgage and conveyance records of the parish in which the property is located, a notation stating that solid waste remains at the site and providing the indicator levels obtained during closure.

6. Upon determination by the administrative authority that a facility has completed closure in accordance with an approved plan, the administrative authority shall release the closure fund to the permit holder. The permit holder shall submit a request for the release of this fund to the Office of Management and Finance, Financial Services Division.

F. Facility Post-Closure Requirements

1. The post-closure period begins when the Office of Environmental Services, Waste Permits Division, approves closure. The length of the post-closure care period for surface impoundments may be:

a. decreased by the administrative authority if the permit holder demonstrates that the reduced period is sufficient to protect human health and the environment in accordance with LAC 33:I.Chapter 13 and this demonstration is approved by the administrative authority (Any demonstration must provide supporting data, including adequate groundwater monitoring data.); or

b. increased by the administrative authority if the administrative authority determines that the lengthened period is necessary to protect human health and the environment in accordance with LAC 33:I.Chapter 13.

2. The following standards regarding post-closure requirements apply to surface impoundments with on-site closure and alternative closure standards.

a. Post-Closure Care Length

i. Facilities that receive solid waste on or after October 9, 1993, must remain in post-closure care for 30 years after closure of the facility.

ii. Existing facilities that do not receive waste on or after October 9, 1993, must remain in post-closure care for three years after closure of the facility.

iii. However, if the facility received waste on or after October 9, 1991, the final cover must be maintained as specified in Subparagraph F.2.b of this Section for 30 years after closure.

b. The post-closure care, except as otherwise specified above, must consist of at least the following:

i. maintaining the integrity and effectiveness of the final cover (including making repairs to the cover as necessary to correct the effects of settling, subsidence, erosion, or other events), preventing run-on and runoff from eroding or otherwise damaging the final cover; and providing annual reports to the Office of Environmental Services, Waste Permits Division, on the integrity of the final cap;

ii. maintaining and operating, if applicable, the leak-detection system;

iii. maintaining and operating the gas collection/treatment or removal system and the gas-monitoring system; and

iv. maintaining the groundwater-monitoring system and monitoring the groundwater in accordance with LAC 33:VII.805.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), repromulgated LR 19:1316 (October 1993), amended by the Office of the Secretary, LR 24:2251 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2524 (November 2000), repromulgated LR 27:704 (May 2001), amended LR 30:1676 (August 2004), amended by the Office of Environmental Assessment, LR 30:2025 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2493 (October 2005), LR 33:1053 (June 2007).

§715. Standards Governing Landfarms (Type I and II)

A. Surface Hydrology

1. Facilities located in a 100-year flood plain shall be filled to bring site elevation above flood levels, or perimeter levees or other measures shall be provided to maintain adequate protection against a 100-year flood.

2. Facilities located in, or within 1,000 feet of, an aquifer recharge zone shall be designed to protect the areas from adverse impacts of operations at the facility.

3. Surface-runoff-diversion levees, canals, or devices shall be installed to prevent drainage from the units of the facility that have not completed the post-closure period to adjoining areas during a 24-hour/25-year storm event.

4. Facilities located in a 100-year flood plain shall not restrict the flow of a 100-year flood or significantly reduce the temporary water-storage capacity of the flood plain, and the design shall ensure that the flooding does not affect the integrity of the facility or result in the washout of solid waste so as to pose a threat to human health and the environment.

5. A run-on control system shall be installed to prevent run-on during the peak discharge from a 24-hour/25-year storm event.

6. Land slope shall be controlled to prevent erosion.

7. The topography of the facility shall provide for drainage to prevent standing water and shall allow for drainage away from the facility.

B. Plans and Specifications

1. Facility plans, specifications, and operations represented and described in the permit application or permit modifications for all facilities shall be prepared under the supervision of and certified by a professional engineer, licensed in the state of Louisiana.

2. Levee Construction

a. Levees or other protective measures shall be provided in order to protect the facility against a 100-year flood.

b. If levees are required to protect the facility against a 100-year flood, such perimeter levees of all facilities shall be engineered to minimize wind and water erosion and shall have a grass cover or other protective cover to preserve structural integrity and shall provide adequate protection against a 100-year flood.

C. Facility Administrative Procedures

1. Reports

a. The permit holder shall submit annual reports to the Office of Management and Finance, Financial Services Division, indicating quantities and types of solid waste (expressed in wet-weight and dry-weight tons per year) received from in-state generators and from out-of-state generators during the reporting period. The annual disposer's report shall also indicate the estimated remaining permitted capacity at the facility as of the end of the reporting period (expressed in wet-weight tons). All calculations used to determine the amounts of solid waste received for disposal during the annual-reporting period shall be submitted to the Office of Management and Finance, Financial Services Division. A form to be used for this purpose shall be obtained from the Office of Management and Finance, Financial Services Division, or through the department's website.

b. The reporting period for the disposer annual report shall be from July 1 through June 30, commencing July 1, 1992, and terminating upon closure of the facility in accordance with the permit.

c. Annual reports shall be submitted to the Office of Management and Finance, Financial Services Division, by August 1 of each reporting year.

d. The annual report is to be provided for each individual permitted facility on a separate annual-reporting form.

e. A facility that receives industrial solid waste shall utilize, in its annual report, the appropriate industrial waste code number.

f. The following reports shall be submitted to the Office of Environmental Assessment, Environmental Technology Division:

i. a copy of the semiannual soil waste mixtures tests and analyses of the results with conclusions, submitted semiannually, or more frequently if deemed necessary by the administrative authority. Test parameters shall consist of soil pH, total nitrogen, phosphorus, organic matter, salts (intrinsic to the waste), cumulative metals, and others as deemed necessary on a site- and waste-specific basis;

ii. annual reports of the analysis of all test results on the soils, land-use, and crop information, calculated amounts of waste applied per acre, total amounts of nitrogen applied per acre, and cumulative-metals loading. Annual reports shall be submitted to the Office of Environmental Services, Waste Permits Division, for a minimum of three years for Type II landfarms and 10 years for Type I landfarms after closure and shall contain analyses of all test results of the soils. The post-closure monitoring annual

reporting may be reduced for certain types of landfarms if the permit holder demonstrates to the administrative authority's satisfaction that such a change is warranted.

2. Recordkeeping

a. The permit holder shall maintain at the facility all records specified in the application as necessary for the effective management of the facility and for preparing the required reports. These records shall be maintained for the life of the facility and shall be kept on file for at least three years after closure.

b. The permit holder shall maintain records of transporters transporting waste for processing or disposal at the facility. The records shall include the date of receipt of shipments of waste and the transporter's solid waste identification number issued by the administrative authority.

c. Records kept on site for all facilities shall include, but not be limited to:

- i. copies of the applicable Louisiana solid waste rules and regulations;
- ii. the permit;
- iii. the permit application;
- iv. permit modifications;
- v. certified field notes for construction;
- vi. operator training programs;
- vii. daily log;
- viii. quality-assurance/quality-control records;
- ix. inspections by the permit holder or operator;
- x. operator certificates from the Board of Certification and Training for Solid Waste Disposal System Operators, if applicable;
- xi. monitoring, testing, or analytical data;
- xii. any other applicable or required data deemed necessary by the administrative authority;
- xiii. records on groundwater sampling results;
- xiv. post-closure monitoring reports;
- xv. copies of all documents received from or submitted to the department; and
- xvi. reports specified in Subparagraph C.1.f of this Section.

3. Personnel

a. Facilities shall have the personnel necessary to achieve the operational requirements of the facility.

b. Facilities receiving residential and commercial solid waste shall have the numbers and levels of certified operators employed at the facility as required by the department in accordance with LAC 46:Part XXIII. Operator certificates shall be prominently displayed at the facility. The Board of Certification and Training for Solid Waste Disposal System Operators and the Office of Environmental Services, Waste Permits Division, shall be notified within 30 days of any changes in the employment status of certified operators.

D. Facility Operations

1. Facility Limitations

a. The receipt of hazardous waste shall be strictly prohibited and prevented. Any other wastes that present special handling or disposal problems may be excluded by the administrative authority.

b. Industrial solid waste, incinerator ash, and nonhazardous petroleum-contaminated media and debris generated by underground storage tanks (UST) corrective action shall be disposed of or processed only in Type I or Type I-A facilities. A comprehensive quality-

assurance/quality-control plan shall be in place before the receipt of these wastes.

c. Grazing by animals whose products are consumed by humans shall be prevented.

d. Only waste that is demonstrated to be biodegradable will be considered for disposal in a landfarm.

e. A comprehensive quality-assurance/quality-control plan shall be provided to ensure that incoming wastes are in conformance with the facility permit.

f. Solid waste with concentrations of polychlorinated biphenyls (PCBs) of 10 mg/kg or more shall not be disposed of in a landfarm.

2. Facility Operational Plans. Operational plans shall be provided that describe in specific detail how the waste will be managed during all phases of processing or disposal operations. At a minimum, the plan shall address:

- a. the route the waste will follow after receipt;
- b. the sequence in which the waste will be processed or disposed of within a unit;
- c. the method and operational changes that will be used during wet weather (Particular attention shall be given to maintenance of access roads and to water management.);
- d. the recordkeeping procedures to be employed to ensure that all pertinent activities are properly documented;
- e. the sampling protocol, chain of custody, and test methods that will be used in the gas-monitoring systems;
- f. the methods that will be used to ensure that the grade and slope of both the on-site drainage system and the run-on diversion system are maintained and serve their intended functions;
- g. a comprehensive operational management plan for the facility that indicates with calculations that the acreages and methods are adequate for treating the type and volume of wastes anticipated. The plan shall include contingencies for variations.

3. Facility Operational Standards

a. Air-Monitoring Standards

i. Facilities receiving waste with a potential to produce gases shall be subject to the air-monitoring requirements.

ii. The permit holder shall make prompt notification to the Office of Environmental Compliance in accordance with LAC 33:I.3923 when strong odors occur at facility boundaries.

iii. Records of inspections, surveys, and, if applicable, gas-monitoring results shall be maintained at the facility.

iv. Odors shall be controlled by the best means practicable.

v. Facilities shall ensure that the units do not violate any applicable requirements developed under a State Implementation Plan (SIP) approved or promulgated in accordance with Section 110 of the Clean Air Act, as amended.

b. The maximum allowable lifetime-metals loading for soils at facilities shall be restricted to the limits specified in the following table. For organic waste, the application rate shall be controlled to ensure that the residual concentration in soils does not exceed the applicable standard of LAC 33:I.Chapter 13 (RECAP). The requirements may be modified by the department if the unit is constructed with an

underdrain system that captures liquid infiltrating the treatment zone.

| Maximum Allowable Metal Loading (lb/acre)* | |
|--|------|
| Arsenic | 37 |
| Cadmium | 35 |
| Copper | 1300 |
| Lead | 270 |
| Mercury | 15 |
| Nickel | 370 |
| Selenium | 89 |
| Zinc | 2500 |
| *Other metals not listed may be subject to restrictions based upon the metal content of the waste. | |

c. Surface application of liquid waste shall not exceed 2 inches per week.

d. Soil in the zone of incorporation shall be monitored to assess the effectiveness of ongoing treatment, management needs, and soil integrity.

e. Nitrogen concentrations in the waste shall be within the limits deemed acceptable, as determined by plant-nitrogen uptake and soil and waste analyses (which shall indicate the movement of all forms of nitrogen). The potential for nitrogen to enter the groundwater shall be addressed.

f. Waste shall be applied to the land surface or incorporated into the soil within 3 feet of the surface.

g. A comprehensive quality-assurance/quality-control plan shall be provided to ensure that all incoming wastes are in conformance with the facility permit and these regulations.

h. Tests of soil/waste mixtures and analyses of the results, with conclusions, shall be conducted semiannually, or more frequently if deemed necessary by the administrative authority. Test parameters shall consist of soil pH, total nitrogen, phosphorus, salts intrinsic to waste, cumulative metals, organic matter, and others deemed necessary by the administrative authority.

i. The administrative authority may provide additional requirements necessary on a site-specific basis depending on waste type and method of application.

j. Landfarms that receive only domestic sewage sludge and septic tank pumpings shall do so in accordance with LAC 33:IX.Chapter 69.

k. Waste Characterization. Hazardous waste determination, in accordance with LAC 33:V.1103, shall be performed by the generator on all solid waste going to disposal facilities, prior to acceptance of the solid waste and annually for two years following acceptance. Every year thereafter, the generator shall certify that the waste remains unchanged.

4. Sufficient equipment shall be provided and maintained at all facilities to meet the facility's operational needs.

5. Facility Operations, Emergency Procedures, and Contingency Plans

a. A plan outlining facility operations and emergency procedures to be followed in case of accident, fire, explosion, or other emergencies shall be developed and filed with the Office of Environmental Services, Waste Permits Division, and with the local fire department and the closest hospital or clinic. The plans shall be updated

annually or when implementation demonstrates that a revision is needed.

b. Training sessions concerning the procedures outlined in Subparagraph D.5.a of this Section shall be conducted annually for all employees working at the facility. A copy of the training program shall be filed with the Office of Environmental Services, Waste Permits Division.

c. Applicants for Type I facilities shall submit certifications from local public service entities.

i. Certifications shall be submitted from the local:

(a). fire department as to whether or not that department has the ability to meet the response requirements of Section 472 of the Life Safety Code of the National Fire Protection Association;

(b). emergency medical services agency as to whether or not that agency has the ability to meet the response requirements of Section 473 of the Life Safety Code of the National Fire Protection Association; and

(c). hospital as to whether it is able to accept and treat patients who are contaminated with hazardous materials.

ii. In the event any such local public service entity cannot certify that it is able to meet the requirements of Clause D.5.c.i of this Section, the applicant for a Type I facility shall identify in the permit application the closest fire department, emergency medical services agency, and hospital that can provide the services listed in Clause D.5.c.i of this Section.

iii. The requirements of Clauses D.5.c.i and ii shall not apply if the applicant for a Type I facility has the ability to meet the response requirements of Section 472 of the Life Safety Code of the National Fire Protection Association.

d. Applicants for Type II facilities shall submit certifications from the local public service entities.

i. Certifications shall be submitted from the local:

(a). fire department and emergency medical services agency regarding their compliance with 29 CFR 1910.120; and

(b). hospital as to whether it is able to accept and treat patients who are contaminated with hazardous materials.

ii. In the event any such local public service entity cannot certify that it is able to meet the requirements of Clause D.5.d.i of this Section, the applicant for a Type II facility shall identify in the permit application the closest fire department, emergency medical services agency, and hospital that can provide the services listed in Clause D.5.d.i of this Section.

iii. The provisions of this Subparagraph shall not apply to a Type I facility that is also a Type II facility.

e. Facility operators for a Type II facility shall be trained in awareness and hazardous waste operations in accordance with 29 CFR 1910.120.

E. Facility Closure Requirements

1. Notification of Intent to Close a Facility. All permit holders shall notify the Office of Environmental Services, Waste Permits Division, in writing at least 90 days before closure or intent to close, seal, or abandon any individual units within a facility and shall provide the following information:

- a. the date of the planned closure;
- b. changes, if any, requested in the approved closure plan; and
- c. the closure schedule and estimated cost.

2. Upon determination by the administrative authority that a facility has completed closure in accordance with an approved plan, the administrative authority shall release the closure fund to the permit holder. The permit holder shall submit a request for the release of this fund to the Office of Management and Finance, Financial Services Division.

3. Closure Requirements. During the closure period the permit holder shall:

- a. continue with all operations (including pH control) necessary to continue normal waste treatment within the treatment zone;
- b. maintain the run-on control system;
- c. maintain the runoff management system;
- d. control wind dispersal of odors and/or waste; and
- e. continue to comply with any prohibitions or conditions concerning growth of food-chain crops.

F. Facility Post-Closure Requirements

1. The post-closure period begins when the Office of Environmental Services, Waste Permits Division, approves closure. The length of the post-closure care period for landfarms may be:

- a. decreased by the administrative authority if the permit holder demonstrates that the reduced period is sufficient to protect human health and the environment in accordance with LAC 33:I.Chapter 13 and this demonstration is approved by the administrative authority (Any demonstration must provide supporting data, including adequate groundwater monitoring data.); or
- b. increased by the administrative authority if the administrative authority determines that the lengthened period is necessary to protect human health and the environment in accordance with LAC 33:I.Chapter 13.

2. Type I Landfarms. For facilities that receive waste on or after October 9, 1993, the permit holder shall continue to comply with any prohibitions or conditions under this Section for 10 years after closure. For facilities that did not receive waste on or after October 9, 1993, the permit holder shall continue to comply with any prohibitions or conditions under this Section for three years after closure.

3. Type II Landfarms

- a. The permit holder shall continue to comply with any prohibitions or conditions under this Section for three years after closure.
- b. Annual reports shall be submitted to the Office of Environmental Compliance, Surveillance Division, for a period of three years after closure and shall contain results of analysis of all soil/waste.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), repromulgated LR 19:1316 (October 1993), amended by the Office of the Secretary, LR 24:2251 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2525 (November 2000), repromulgated LR 27:704 (May 2001), amended LR 30:1676 (August 2004), amended by the Office of Environmental Assessment, LR 30:2025 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2493 (October 2005), LR 33:1058 (June 2007).

Subchapter B. Solid Waste Processors

§717. Standards Governing All Type I-A and II-A Solid Waste Processors

A. Location Characteristics. The information on location characteristics listed in this Subsection is required and shall be provided for all Type I-A and II-A solid waste processing and disposal facilities, as outlined in LAC 33:VII.521.

1. Area master plans shall include location maps and/or engineering drawings. The scale of the maps and engineering drawings shall be legible. Area master plans shall show:

- a. the facility;
- b. the road network;
- c. major drainage systems;
- d. drainage-flow patterns;
- e. the location of the closest population centers;
- f. if the facility processes or disposes of putrescible solid waste, the location of any public-use airport used by turbojet aircraft or piston-type aircraft (if within a 5-mile radius);
- g. the location of the 100-year flood plain, based on the most recent data; and
- h. other pertinent information.

2. Access to facilities by land or water transportation shall be by all-weather roads or waterways that can meet the demands of the facility and are designed to avoid, to the extent practicable, congestion, sharp turns, obstructions, or other hazards conducive to accidents. The surface roadways shall be adequate to withstand the weight of transportation vehicles.

3. A letter shall be acquired from the appropriate agency or agencies regarding any facility receiving waste generated off-site, stating that the facility will not have a significant adverse impact on the traffic flow of area roadways and that the construction, maintenance, or proposed upgrading of such roads is adequate to withstand the weight of the vehicles.

4. Facilities that process or dispose of putrescible solid waste shall not be located within 10,000 feet of the end of any public-use airport runway used by turbojet aircraft or within 5,000 feet of the end of any public-use airport runway used only by piston-type aircraft.

5. A description shall be included of the total existing land use within 3 miles of the facility (by approximate percentage) including, but not limited to:

- a. residential;
- b. health-care facilities and schools;
- c. agriculture;
- d. industrial and manufacturing;
- e. other commercial;
- f. recreational; and
- g. undeveloped.

6. A current aerial photograph, representative of the current land use, of a 1-mile radius surrounding the facility is required. The aerial photograph shall be of sufficient scale to depict all pertinent features.

7. Facilities located in, or within 1,000 feet of, swamps, marshes, wetlands, estuaries, wildlife-hatchery areas, habitat of endangered species, archaeological sites, historic sites, publicly-owned recreation areas, and similar critical environmental areas shall be isolated from such areas by effective barriers that eliminate probable adverse impacts

from facility operations. The following information on environmental characteristics shall be provided:

a. a list of all known historic sites, recreation areas, archaeological sites, designated wildlife-management areas, swamps, marshes, wetlands, habitats for endangered species, and other sensitive ecological areas within 1,000 feet of the facility perimeter, or as otherwise appropriate;

b. documentation from the appropriate state and federal agencies substantiating the historic sites, recreation areas, archaeological sites, designated wildlife-management areas, swamps, marshes, wetlands, habitats for endangered species, and other sensitive ecological areas within 1,000 feet of the facility perimeter; and

c. a description of the measures planned to protect the areas listed from the adverse impact of operation at the facility.

8. Processing facilities may be subject to a comprehensive land-use or zoning plan established by local regulations or ordinances.

9. A statement of the estimated population, the source of the estimation, and the population density within a 3-mile radius of the facility boundary is required of all facilities.

10. A wetlands demonstration, if applicable, is required in accordance with LAC 33:VII.709.A.8.

B. Facility Characteristics. The following facility characteristics are required for Type I-A and Type II-A solid waste processors and disposers, as outlined in LAC 33:VII.521.C.

1. Elements of the process or disposal system employed shall be provided, including, as applicable, property lines, original contours (shown at not greater than 5-foot intervals), buildings, units of the facility, drainage, ditches, and roads.

2. Perimeter barriers and other control measures, such as security and signs, shall be provided as follows.

a. Facilities shall have a perimeter barrier around the facility that prevents unauthorized ingress or egress, except by willful entry.

b. During operating hours, each facility entry point shall be continuously monitored, manned, or locked.

c. During nonoperating hours, each facility entry point shall be locked.

d. Facilities that receive wastes from off-site sources shall post readable signs that list the types of waste that can be received at the facility.

3. Buffer Zones

a. Buffer zones of not less than 200 feet shall be provided between the facility and the property line. A reduction in this requirement shall be allowed only with the permission, in the form of a notarized affidavit, of the adjoining landowner. A copy of the notarized affidavit waiving the buffer zone requirement shall be entered in the mortgage and conveyance records of the parish for the adjoining landowner's property. Buffer zone requirements may be waived or modified by the administrative authority for areas of processing facilities that have been closed in accordance with these regulations and for existing facilities.

b. No storage, processing, or disposal of solid waste shall occur within the buffer zone.

4. Fire Protection and Medical Care. All facilities shall have access to required fire protection and medical

care, or such services shall be provided internally and in accordance with Paragraph G.5 of this Section.

5. Landscaping. All facilities, other than those that are located within the boundaries of a plant, industry, or business that generates the waste to be processed or disposed of, shall provide landscaping to improve the aesthetics of the facility.

6. Devices or Methods for Receiving and Monitoring Incoming Wastes

a. All processing facilities shall be equipped with a device or method to determine quantity (by wet-weight tonnage); sources (whether the waste was generated in-state or out-of-state and, if it is industrial solid waste, where it was generated); and types of incoming waste (i.e., commercial, residential, infectious). All facilities shall also be equipped with a device or method to control entry of the waste and prevent entry of unrecorded or unauthorized deliverables (i.e., hazardous, unauthorized, or unpermitted solid waste).

b. All processing facilities shall be equipped with a central control and recordkeeping system for tabulating the information required in Subparagraph B.6.a of this Section.

7. Discharges from operating units of all facilities shall be controlled and shall conform to applicable state and federal laws. Applications for applicable state and federal discharge permits shall be filed before a standard permit may be issued.

C. Surface Hydrology

1. Facilities located in a flood plain, wetlands, or areas historically subject to overflow from floods shall be filled to bring site elevation above flood levels or otherwise protected by measures approved on a site-specific basis. Perimeter levees or other measures shall provide and maintain adequate protection against a 100-year flood.

2. Surface-runoff-diversion levees, canals, or devices shall be installed to prevent drainage from the units of the facility that have not received final cover. The proposed system shall be designed for a 24-hour/25-year storm event.

D. Facility Geology

1. Except as provided in Paragraph D.2 of this Section, facilities shall have natural stable soils of low permeability for the area occupied by the solid waste facility, including vehicle parking and turnaround areas, that shall provide a barrier to prevent any penetration of surface spills into groundwater aquifers underlying the area or to a sand or other water-bearing stratum that would provide a conduit to such aquifers.

2. A design for surfacing natural soils that do not meet the requirement in Paragraph D.1 of this Section shall be prepared and installed under the supervision of a professional engineer, licensed in the state of Louisiana, with expertise in geotechnical engineering and hydrogeology. Written certification by the engineer that the surface satisfies the requirements of Paragraph D.1 of this Section shall be provided to the Office of Environmental Services, Waste Permits Division.

3. Specific requirements for Type III facilities are found in LAC 33:VII.Chapter 8.

E. Plans and Specifications

1. Facility plans, specifications, and operations represented and described in the permit application or permit modifications for all facilities shall be prepared under the

supervision of and certified by a professional engineer, licensed in the state of Louisiana.

2. Levee Construction

a. Levees or other protective measures shall be constructed adjacent to the facility in order to protect the facility against a 100-year flood.

b. The perimeter levees of all facilities shall be engineered to minimize wind and water erosion and shall have a grass cover or other protective cover to preserve structural integrity.

F. Facility Administrative Procedures

1. Reports

a. The permit holder shall submit annual reports to the Office of Management and Finance, Financial Services Division, indicating quantities and types of solid waste (expressed in both dry- and wet-weight tons per year), received from in-state generators and from out-of-state generators, during the reporting period. All calculations used to determine the amounts of solid waste received for processing during the annual-reporting period shall be submitted to the Office of Management and Finance, Financial Services Division. A form to be used for this purpose shall be obtained from the Office of Management and Finance, Financial Services Division, or through the department's website.

b. The reporting period for the processor annual report shall be from July 1 through June 30, commencing July 1, 1992, and terminating upon closure of the facility in accordance with the permit.

c. Annual reports shall be submitted to the Office of Management and Finance, Financial Services Division, by August 1 of each reporting year.

d. The annual report is to be provided for each individual permitted facility on a separate annual-reporting form.

e. A facility that receives industrial solid waste shall utilize, in its annual report, the appropriate industrial waste code number.

f. The annual report for incinerator waste-handling facilities, shredders, balers, compactors, and transfer stations shall identify the quantity (expressed in wet-weight tons per year), and types of solid waste transported for disposal. The report shall also identify the permitted facility used for disposal of the waste.

2. Recordkeeping

a. The permit holder shall maintain at the facility all records specified in the application as necessary for the effective management of the facility and for preparing the required reports. These records shall be maintained for the life of the facility and shall be kept on file for at least three years after closure.

b. The permit holder shall maintain records of transporters transporting waste for processing or disposal at the facility. The records shall include the date of receipt of shipments of waste and the transporter's solid waste identification number issued by the administrative authority.

c. Records kept on site for all facilities shall include, but not be limited to:

- i. copies of the applicable Louisiana solid waste rules and regulations;
- ii. the permit;
- iii. the permit application;

iv. permit modifications; and

v. operator certificates from the Board of Certification and Training for Solid Waste Disposal System Operators, if applicable.

3. Personnel

a. Facilities shall have the personnel necessary to achieve the operational requirements of the facility.

b. Facilities receiving residential and commercial solid waste shall have the numbers and levels of certified operators employed at the facility as required by the department in accordance with LAC 46:Part XXIII. Operator certificates shall be prominently displayed at the facility. The Board of Certification and Training for Solid Waste Disposal System Operators and the Office of Environmental Services, Waste Permits Division, shall be notified within 30 days of any changes in the employment status of certified operators.

G. Facility Operations

1. Facility Limitations

a. The receipt of hazardous waste shall be strictly prohibited and prevented. Any other wastes that present special handling or disposal problems may be excluded by the administrative authority.

b. Open burning shall not be practiced unless authorization is first obtained from the administrative authority and any other applicable federal, state, and local authorities.

c. Salvaging shall be prevented unless approved by the administrative authority.

d. Scavenging shall be prevented.

e. Industrial solid waste, incinerator ash, and nonhazardous petroleum-contaminated media and debris generated by underground storage tanks (UST) corrective action shall be processed only in Type I-A facilities. A comprehensive quality-assurance/quality-control plan shall be in place before the receipt of these wastes.

f. The receipt of mercury and/or cadmium-bearing batteries by Type I-A and II-A incinerator waste-handling facilities is strictly prohibited.

2. Facility Operational Plans. Operational plans shall be provided that describe in specific detail how the waste will be managed during all phases of processing operations. At a minimum, the plan shall address:

a. the route the waste will follow after receipt;

b. the sequence in which the waste will be processed or disposed of within a unit;

c. the method and operational changes that will be used during wet weather (Particular attention shall be given to maintenance of access roads and to water management.); and

d. the recordkeeping procedures to be employed to ensure that all pertinent activities are properly documented.

3. Facility Operational Standards

a. Waste Characterization. Hazardous waste determination, in accordance with LAC 33:V.1103, shall be performed by the generator on all solid waste received for processing, prior to acceptance of the solid waste and annually for two years following acceptance. Every year thereafter, the generator shall certify that the waste remains unchanged.

b. All containers shall provide containment of the wastes and thereby control litter, odor, and other pollution of adjoining areas.

c. Provisions shall be made for at least daily cleanup of the facility, including equipment and waste-handling areas.

d. No solid waste shall be stored long enough to cause a nuisance, health hazard, or detriment to the environment.

e. Treatment facilities for washdown and other contaminated water shall be provided.

f. Facilities that employ incineration shall develop an ash-management plan that includes, at a minimum, testing, handling, transportation, and disposal of ash at a permitted facility.

g. Facilities shall have a plan for handling contaminated water.

h. Specific Operational Standards for Incinerator Waste-Handling Facilities

i. Handling. Ash shall be properly wetted and contained so as to ensure that there are no dust emissions during loading, transporting, or unloading.

ii. Testing. Testing procedures, schedules, and methods shall be submitted to the Office of Environmental Services, Waste Permits Division, for review and approval before disposal operations begin. Disposal of ash shall be only in a permitted Type I facility. Processing of ash shall be only in a permitted Type I-A facility.

4. Sufficient equipment shall be provided and maintained at all facilities to meet the facilities' operational needs.

5. Facility Operations, Emergency Procedures, and Contingency Plans

a. A plan outlining facility operations and emergency procedures to be followed in case of accident, fire, explosion, or other emergencies shall be developed and filed with the Office of Environmental Services, Waste Permits Division, and with the local fire department and the closest hospital or clinic. The plans shall be updated annually or when implementation demonstrates that a revision is needed.

b. Training sessions concerning the procedures outlined in Subparagraph G.5.a of this Section shall be conducted annually for all employees working at the facility. A copy of the training program shall be filed with the Office of Environmental Services, Waste Permits Division.

c. Applicants for Type I-A facilities shall submit certifications from local public service entities.

i. Certifications shall be submitted from the local:

(a). fire department as to whether or not that department has the ability to meet the response requirements of Section 472 of the Life Safety Code of the National Fire Protection Association;

(b). emergency medical services agency as to whether or not that agency has the ability to meet the response requirements of Section 473 of the Life Safety Code of the National Fire Protection Association; and

(c). hospital as to whether it is able to accept and treat patients who are contaminated with hazardous materials.

ii. In the event any such local public service entity cannot certify that it is able to meet the requirements of Clause G.5.c.i of this Section, the applicant for a Type I-A facility shall identify in the permit application the closest fire

department, emergency medical services agency, and hospital that can provide the services listed in Clause G.5.c.i of this Section.

iii. The requirements of Clauses G.5.c.i and ii of this Section shall not apply if the applicant for a Type I-A facility has the ability to meet the response requirements of Section 472 of the Life Safety Code of the National Fire Protection Association.

d. Applicants for Type II-A facilities shall submit certifications from local public service entities.

i. Certifications shall be submitted from the local:

(a). fire department and emergency medical services agency regarding their compliance with 29 CFR 1910.120; and

(b). hospital as to whether it is able to accept and treat patients who are contaminated with hazardous materials.

ii. In the event any such local public service entity cannot certify that it is able to meet the requirements of Clauses G.5.d.i of this Section, the applicant for a Type II-A facility shall identify in the permit application the closest fire department, emergency medical services agency, and hospital that can provide the services listed in Clause G.5.d.i of this Section.

iii. The provisions of this Subparagraph shall not apply to a Type I-A facility that is also a Type II-A.

e. Facility operators for a Type II-A facility shall be trained in awareness and hazardous waste operations in accordance with 29 CFR 1910.120.

H. Implementation Plans. The implementation plans for all facilities shall include the following:

1. a construction schedule for existing facilities, which shall include beginning and ending time frames and time frames for the installation of all major features; and

2. details on phased implementation, if any proposed facility is to be constructed in phases.

I. Facility Closure Requirements

1. Notification of Intent to Close a Facility. All permit holders shall notify the Office of Environmental Services, Waste Permits Division, in writing at least 90 days before closure or intent to close, seal, or abandon any individual units within a facility and shall provide the following information:

a. the date of the planned closure;

b. changes, if any, requested in the approved closure plan; and

c. the closure schedule and estimated cost.

2. Closure Requirements

a. Insect and rodent inspection is required to be documented before closure, and extermination measures shall be provided if required as a result of the final inspection.

b. All remaining waste shall be removed to a permitted facility for disposal.

c. The permit holder shall verify that the underlying soils have not been contaminated due to the operation of the facility. If contamination exists, a remediation/removal program developed to meet the standards of LAC 33:VII.713.E.3-6 shall be provided to the administrative authority. The Office of Environmental Compliance, Surveillance Division, shall conduct a closure inspection to

verify that the facility was closed in accordance with the approved closure plan.

3. Upon determination by the administrative authority that a facility has completed closure in accordance with an approved plan, the administrative authority shall release the closure fund to the permit holder. The permit holder shall submit a request for the release of this fund to the Office of Management and Finance, Financial Services Division.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, LR 24:2252 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2526, 2610 (November 2000), repromulgated LR 27:704 (May 2001), amended by the Office of Environmental Assessment, LR 30:2025 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2494 (October 2005), LR 33:1061 (June 2007).

Subchapter C. Minor Processing and Disposal Facilities

§719. Standards Governing All Type III Processing and Disposal Facilities

[Formerly some of the provisions in Subsections A, B, and E existed in §521.]

A. Location Characteristics. The information on location characteristics listed in this Subsection is required and shall be provided for all Type III solid waste processing and disposal facilities, as outlined in LAC 33:VII.521.B.

1. Area master plans shall include location maps and/or engineering drawings. The scale of the maps and engineering drawings shall be legible. Area master plans shall show:

- a. the facility;
- b. the road network;
- c. major drainage systems;
- d. drainage-flow patterns;
- e. the location of the closest population centers;
- f. if the facility processes or disposes of putrescible solid waste, the location of any public-use airport used by turbojet aircraft or piston-type aircraft (if within a 5-mile radius);
- g. the location of the 100-year flood plain based on the most recent data; and
- h. other pertinent information.

2. Access to facilities by land or water transportation shall be by all-weather roads or waterways that can meet the demands of the facility and are designed to avoid, to the extent practicable, congestion, sharp turns, obstructions, or other hazards conducive to accidents. The surface roadways shall be adequate to withstand the weight of transportation vehicles.

3. Facilities that compost putrescible solid waste shall not be located within 10,000 feet of the end of any public-use airport runway used by turbojet aircraft or within 5,000 feet of the end of any public-use airport runway used by only piston-type aircraft.

4. Facilities located in, or within 1,000 feet of, swamps, marshes, wetlands, estuaries, wildlife-hatchery areas, habitat of endangered species, archaeological sites, historic sites, publicly-owned recreation areas, and similar critical environmental areas shall be isolated from such areas by effective barriers that eliminate probable adverse impacts

from facility operations. The following information on environmental characteristics shall be provided:

a. a list of all known historic sites, recreation areas, archaeological sites, designated wildlife-management areas, swamps, marshes, wetlands, habitats for endangered species, and other sensitive ecological areas within 1,000 feet of the facility perimeter, or as otherwise appropriate;

b. documentation from the appropriate state and federal agencies substantiating the historic sites, recreation areas, archaeological sites, designated wildlife-management areas, swamps, marshes, wetlands, habitats for endangered species, and other sensitive ecological areas within 1,000 feet of the facility perimeter; and

c. a description of the measures planned to protect the areas listed from the adverse impact of operation at the facility.

5. A letter shall be acquired from the appropriate agency or agencies regarding any facility receiving waste generated off-site, stating that the facility will not have a significant adverse impact on the traffic flow of area roadways and that the construction, maintenance, or proposed upgrading of such roads is adequate to withstand the weight of the vehicles.

6. A description shall be included of the total existing land use within 3 miles of the facility (by approximate percentage) including, but not limited to:

- a. residential;
- b. health-care facilities and schools;
- c. agriculture;
- d. industrial and manufacturing;
- e. other commercial;
- f. recreational; and
- g. undeveloped.

7. A current aerial photograph, representative of the current land use, of a 1-mile radius surrounding the facility is required. The aerial photograph shall be of sufficient scale to depict all pertinent features.

8. Processing or disposal facilities may be subject to a comprehensive land-use or zoning plan established by local regulations or ordinances.

9. A statement of the estimated population, the source of the estimation, and the population density within a 3-mile radius of the facility boundary is required of all facilities.

10. A wetlands demonstration, if applicable is required, in accordance with LAC 33:VII.709.A.8.

B. Facility Characteristics. The following facility characteristics are required for all Type III solid waste facilities, as outlined in LAC 33:VII.521.C.

1. Elements of the process or disposal system employed shall be provided, including, as applicable, property lines, original contours (shown at not greater than 5-foot intervals), buildings, units of the facility, drainage, ditches, and roads.

2. Perimeter barriers and other control measures, such as security and signs, shall be provided as follows.

a. Facilities shall have a perimeter barrier around the facility that prevents unauthorized ingress or egress, except by willful entry.

b. During operating hours, each facility entry point shall be continuously monitored, manned, or locked.

c. During nonoperating hours, each facility entry point shall be locked.

d. Facilities that receive wastes from off-site sources shall post readable signs that list the types of wastes that can be received at the facility.

3. Buffer Zones

a. Buffer zones of not less than 50 feet shall be provided between the facility and the property line. A reduction in this requirement shall be allowed only with the permission, in the form of a notarized affidavit, of the adjoining landowner. A copy of the notarized affidavit waiving the buffer zone requirement shall be entered in the mortgage and conveyance records of the parish for the adjoining landowner's property. Buffer zone requirements may be waived or modified by the administrative authority for areas of woodwaste/construction/demolition-debris landfills that have been closed in accordance with these regulations and for existing facilities. Notwithstanding this Paragraph, Type III air curtain destructors and composting facilities that receive putrescible, residential, or commercial waste shall meet the buffer zone requirements in LAC 33:VII.717.B.3. In addition, air curtain destructors shall maintain at least a 1,000-foot buffer from any dwelling other than a dwelling or structure located on the property on which the burning is conducted (unless the appropriate notarized affidavit waivers are obtained).

b. No storage, processing, or disposal of solid waste shall occur within the buffer zone.

4. Fire Protection and Medical Care. All facilities shall have access to required fire protection and medical care, or such services shall be provided internally.

a. A plan outlining facility operations and emergency procedures to be followed in case of accident, fire, explosion, or other emergencies shall be developed and filed with the Office of Environmental Services, Waste Permits Division, and with the local fire department and the closest hospital or clinic. The plans shall be updated annually or when implementation demonstrates that a revision is needed.

b. Training sessions concerning the procedures outlined in Subparagraph B.4 of this Section shall be conducted annually for all employees working at the facility. A copy of the training program shall be filed with the Office of Environmental Services, Waste Permits Division.

5. Landscaping. All facilities, other than those that are located within the boundaries of a plant, industry, or business that generates the waste to be processed or disposed of, shall provide landscaping to improve the aesthetics of the facility.

6. Devices or Methods for Receiving and Monitoring Incoming Wastes

a. All processing or disposal facilities shall be equipped with a device or method to determine quantity (by wet-weight tonnage), sources (whether the waste was generated in-state or out-of-state), and types of incoming waste. All facilities shall also be equipped with a device or method to control entry of the waste and prevent entry of unrecorded or unauthorized deliverables (i.e., hazardous, unauthorized, or unpermitted solid waste).

b. All processing or disposal facilities shall be equipped with a central control and recordkeeping system for tabulating the information required in Subparagraph B.6.a of this Section.

7. Discharges from operating units of all facilities shall be controlled and shall conform to applicable state and federal laws. Applications for applicable state and federal discharge permits shall be filed before a standard permit may be issued.

C. Surface Hydrology

1. Facilities located in a flood plain, wetlands, or areas historically subject to overflow from floods shall be filled to bring site elevation above flood levels or otherwise protected by measures approved on a site-specific basis. Perimeter levees or other measures shall provide and maintain adequate protection against a 100-year flood.

2. Facilities located in, or within 1,000 feet of, an aquifer recharge zone shall be designed to protect the areas from adverse impacts of operations at the facility.

3. Surface-runoff-diversion levees, canals, or devices shall be installed to prevent drainage from the units of the facility that have not received final cover. The proposed system shall be designed for a 24-hour/25-year storm event.

4. Specific Surface Hydrology Standard for Type III Composting Facilities. The topography of the facility shall provide for drainage to prevent standing water and shall allow for drainage away from the facility.

D. Facility Geology

1. Except as provided in Paragraph D.2 of this Section, facilities shall have natural stable soils of low permeability for the area occupied by the solid waste facility, including vehicle parking and turnaround areas, that shall provide a barrier to prevent any penetration of surface spills into groundwater aquifers underlying the area or to a sand or other water-bearing stratum that would provide a conduit to such aquifers.

2. A design for surfacing natural soils that do not meet the requirement in Paragraph D.1 of this Section shall be prepared and installed under the supervision of a professional engineer, licensed in the state of Louisiana, with expertise in geotechnical engineering and hydrogeology. Written certification by the engineer that the surface satisfies the requirements of Paragraph D.1 of this Section shall be provided to the Office of Environmental Services, Waste Permits Division.

3. Specific requirements for Type III facilities are found in LAC 33:VII.Chapter 8.

E. Implementation Plans. The implementation plans for all facilities shall include the following:

1. a construction schedule for existing facilities, which shall include beginning and ending time frames and time frames for the installation of all major features; and

2. details on phased implementation, if any proposed facility is to be constructed in phases.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2527 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2495 (October 2005), LR 33:1065 (June 2007).

§721. Standards Governing Construction and Demolition Debris and Woodwaste Landfills (Type III)

A. Plans and Specifications

1. Facility plans, specifications, and operations represented and described in the permit application or permit modifications for all facilities shall be prepared under the supervision of and certified by a professional engineer, licensed in the state of Louisiana.

2. Interim Cover Requirements

a. Cover material shall:

i. minimize vector-breeding areas and animal attraction by controlling:

(a). fly, mosquito, and other insect emergence and entrance;

(b). rodent burrowing for food and harborage; and

(c). bird and animal attraction;

ii. control leachate generation by:

(a). minimizing external-moisture infiltration;

(b). minimizing erosion; and

(c). utilizing materials with minimum free-liquid content;

iii. reduce fire-hazard potential;

iv. minimize blowing paper and litter;

v. reduce noxious odors by minimizing outward movement of methane and other gases;

vi. provide aesthetic appearance to the landfill operation; and

vii. allow accessibility regardless of weather.

b. Wastes shall be deposited in the smallest practical area each day and compacted. The wastes shall be covered with silty clays applied a minimum of 12 inches thick, at least every 30 days and documented in the facility's records.

3. Levee Construction

a. Levees or other protective measures approved by the administrative authority shall be provided in order to protect the facility against a 100-year flood.

b. If levees are required to protect the facility against a 100-year flood, such perimeter levees shall be engineered to minimize wind and water erosion and shall have a grass cover or other protective cover to preserve structural integrity and shall provide adequate protection against a 100-year flood.

B. Facility Administrative Procedures

1. Reports

a. The permit holder shall submit annual reports to the Office of Management and Finance, Financial Services Division, indicating quantities and types of solid waste (expressed in both dry- and wet-weight tons per year), received from in-state generators and from out-of-state generators, during the reporting period. All calculations used to determine the amounts of solid waste received for processing or disposal during the annual-reporting period shall be submitted to the Office of Management and Finance, Financial Services Division. A form to be used for this purpose shall be obtained from the Office of Management and Finance, Financial Services Division, or through the department's website.

b. The reporting period for the processor and/or disposer annual report shall be from July 1 through June 30,

commencing July 1, 1992, and terminating upon closure of the facility in accordance with the permit.

c. Annual reports shall be submitted to the Office of Management and Finance, Financial Services Division, by August 1 of each reporting year.

d. The annual report is to be provided for each individual permitted facility on a separate annual reporting form.

2. Recordkeeping

a. The permit holder shall maintain at the facility all records specified in the application as necessary for the effective management of the facility and for preparing the required reports. These records shall be maintained for the life of the facility and shall be kept on file for at least three years after closure.

b. The permit holder shall maintain records of transporters transporting waste for processing or disposal at the facility. The records shall include the date of receipt of shipments of waste and the transporter's solid waste identification number issued by the administrative authority.

c. Records kept on site for all facilities shall include, but not be limited to:

i. copies of the applicable Louisiana solid waste rules and regulations;

ii. the permit;

iii. the permit application; and

iv. permit modifications.

3. Personnel

a. All facilities shall have the personnel necessary to achieve the operational requirements of the facility.

b. Type III facilities receiving construction and demolition debris and woodwaste shall have the numbers and levels of certified operators employed at the facility as required by the department in accordance with LAC 46:Part XXIII. Operator certificates shall be prominently displayed at the facility. The Board of Certification and Training for Solid Waste Disposal System Operators and the Office of Environmental Services, Waste Permits Division, shall be notified within 30 days of any changes in the employment status of certified operators. The requirements of this Subparagraph are not applicable to facilities meeting the criteria of LAC 33:VII.305.A.4.

C. Facility Operations

1. Facility Limitations

a. The receipt of hazardous waste shall be strictly prohibited and prevented. Any other wastes that present special handling or disposal problems may be excluded by the administrative authority.

b. Open burning shall not be practiced unless authorization is first obtained from the administrative authority and any other applicable federal, state, and local authorities.

c. Salvaging shall be prevented unless approved by the administrative authority.

d. Scavenging shall be prevented.

e. The following types of waste may be disposed of:

i. *construction/demolition debris*, as defined in LAC 33:VII.115;

ii. *woodwaste*, as defined in LAC 33:VII.115; and

iii. *yard trash*, as defined in LAC 33:VII.115.

f. The disposal of liquid waste, infectious waste, residential waste, industrial waste, commercial waste,

RACM, and putrescible waste shall be strictly prohibited and prevented.

g. No solid waste shall be deposited in standing water.

2. Facility Operational Plans. Operational plans shall be provided that describe in specific detail how the waste will be managed during all phases of processing or disposal operations. At a minimum, the plan shall address:

a. the route the waste will follow after receipt;

b. the sequence in which the waste will be processed or disposed of within a unit;

c. the method and operational changes that will be used during wet weather (Particular attention shall be given to maintenance of access roads and to water management.);

d. the recordkeeping procedures to be employed to ensure that all pertinent activities are properly documented;

e. the side slope, which shall be no steeper than 3(H):1(V);

f. the run-on/runoff-diversion system, which shall be maintained to ensure proper operation of the drainage system; and

g. a quality-assurance/quality-control plan for the management of non-RACM waste, which shall include, at a minimum, detailed procedures involved in transportation, disposal, and monitoring of the waste.

3. Sufficient equipment shall be provided and maintained at all facilities to meet the facilities' operational needs.

4. Segregation of Wastes. Waste determined to be unacceptable at a woodwaste and construction/demolition-debris landfill shall be removed from the facility at least every seven days. Storage of this waste shall be in a closed container that prevents vector and odor problems. The facility shall maintain a log of dates and volumes of waste removed from the facility.

5. Facility Operations, Emergency Procedures, and Contingency Plans

a. A plan outlining facility operations and emergency procedures to be followed in case of accident, fire, explosion, or other emergencies shall be developed and filed with the Office of Environmental Services, Waste Permits Division, and with the local fire department and the closest hospital or clinic. The plans shall be updated annually or when implementation demonstrates that a revision is needed.

b. Training sessions concerning the procedures outlined in Subparagraph C.5.a of this Section shall be conducted annually for all employees working at the facility. A copy of the training program shall be filed with the Office of Environmental Services, Waste Permits Division.

c. Applicants for Type III facilities shall submit certifications from local public service entities.

i. Certifications shall be submitted from the local:

(a) fire department and emergency medical services agency regarding their compliance with 29 CFR 1910.120; and

(b) hospital as to whether it is able to accept and treat patients who are contaminated with hazardous materials.

ii. In the event any such local public service entity cannot certify that it is able to meet the requirements of

Clause C.5.c.i of this Section, the applicant for a Type III facility shall identify in the permit application the closest fire department, emergency medical services agency, and hospital that can provide the services listed in Clause C.5.c.i of this Section.

d. Facility operators for a Type III facility shall be trained in awareness and hazardous waste operations in accordance with 29 CFR 1910.120.

D. Facility Closure Requirements

1. Notification of Intent to Close a Facility. All permit holders shall notify the Office of Environmental Services, Waste Permits Division, in writing at least 90 days before closure or intent to close, seal, or abandon any individual units within a facility and shall provide the following information:

a. the date of the planned closure;

b. changes, if any, requested in the approved closure plan; and

c. the closure schedule and estimated cost.

2. Preclosure Requirements

a. Final cover shall be applied within 30 days after final grades are reached in each unit of a facility. This deadline may be extended by the administrative authority if necessary due to inclement weather or other circumstances.

b. Standing water shall be solidified or removed.

c. The runoff-diversion system shall be maintained until the final cover is installed.

d. The runoff-diversion system shall be maintained and modified to prevent overflow of the landfill to adjoining areas.

e. Insect and rodent inspection is required to be documented before installation of final cover, and extermination measures shall be provided, if required as a result of the facility inspection.

f. Final compaction and grading shall be completed before capping.

3. Closure Requirements

a. Final Cover

i. Final cover shall consist of a minimum of 24 inches of silty clays and 6 inches of topsoil cover for supporting vegetative growth; however, other covers that provide a more practical answer and satisfy the purposes of minimizing fire hazards, odors, vector food and harborage, and infiltration of precipitation, as well as discouraging scavenging and limiting erosion, may be submitted to the Office of Environmental Services, Waste Permits Division, for approval.

ii. The side slope shall be no steeper than 3(H):1(V) and shall have a minimum of a four percent slope on the top of the final cap, unless it can be demonstrated that a lesser slope is sufficient for proper drainage following the post-settlement.

iii. The Office of Environmental Compliance, Surveillance Division, shall be notified prior to planting a ground cover, and the permit holder shall notify the Office of Environmental Compliance, Surveillance Division, once the ground cover is established.

iv. Quality-assurance/quality-control procedures shall be developed and implemented to ensure that the final cover is designed, constructed, and installed properly. An engineering certification verifying that the facility meets the final cover requirements shall be prepared under the

supervision of a professional engineer licensed in the state of Louisiana. This certification shall be submitted to the Office of Environmental Assessment, Environmental Technology Division, for approval.

v. A combination of clay and synthetic material approved by the administrative authority may also be used as final cover.

b. After a closure inspection and approval, the permit holder shall plant a ground cover to prevent erosion and to return the facility location to a more natural appearance.

c. The permit holder shall update the parish mortgage and conveyance records by recording the specific location of the facility and specifying that the property was used for the disposal of solid waste. The document shall identify the name and address of the person with knowledge of the contents of the facility. An example of the form to be used for this purpose is provided in LAC 33:VII.3011.Appendix F. The facility shall provide the Office of Environmental Services, Waste Permits Division, with a true copy of the document filed and certified by the parish clerk of court.

4. Upon determination by the administrative authority that a facility has completed closure in accordance with an approved plan, the administrative authority may release the closure fund to the permit holder. The permit holder shall submit a request for the release of this fund to the Office of Management and Finance, Financial Services Division.

E. Facility Post-Closure Requirements

1. The post-closure period begins when the Office of Environmental Services, Waste Permits Division, approves closure. The time frame of post-closure care may be lengthened, if necessary, to protect human health or the environment in accordance with LAC 33:I.Chapter 13.

2. The integrity of the grade and cap shall be maintained for no less than three years after the date of the administrative authority's approval of the closure of the facility. The Office of Environmental Assessment, Environmental Technology Division, shall be notified of any problems and corrective action measures associated with the integrity and effectiveness of the final cover.

3. Annual reports concerning the integrity of the cap shall be submitted to the Office of Environmental Compliance, Surveillance Division, for a period of three years after closure.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 20:1001 (September 1994), amended by the Office of the Secretary, LR 24:2252 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2527 (November 2000), repromulgated LR 27:705 (May 2001), amended by the Office of Environmental Assessment, LR 30:2025 (September 2004), LR 31:1577 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2495 (October 2005), LR 33:1067 (June 2007).

§723. Standards Governing Composting Facilities

A. Plans and Specifications

1. Facility plans, specifications, and operations represented and described in the permit application or permit modifications for all facilities shall be prepared under the

supervision of and certified by a professional engineer, licensed in the state of Louisiana.

2. Levee Construction

a. Levees or other protective measures shall be provided in order to protect the facility against a 100-year flood.

b. The perimeter levees of all facilities shall be engineered to minimize wind and water erosion and shall have a grass cover or other protective cover to preserve structural integrity.

3. Leachate Management

a. Leachate produced in the composting process shall be collected and treated or disposed of at a permitted facility.

b. Leachate may also be reused in the composting process as a source of moisture.

B. Surface Hydrology. The topography of the facility shall provide for drainage to prevent standing water and shall allow for drainage away from the facility.

C. Facility Administrative Procedures

1. Reports

a. The permit holder shall submit annual reports to the Office of Management and Finance, Financial Services Division, indicating quantities and types of solid waste (expressed in both dry- and wet-weight tons per year), received from in-state generators and from out-of-state generators, during the reporting period. All calculations used to determine the amounts of solid waste received for processing during the annual-reporting period shall be submitted to the Office of Management and Finance, Financial Services Division. A form to be used for this purpose shall be obtained from the Office of Management and Finance, Financial Services Division, or through the department's website.

b. The reporting period for the processor annual report shall be from July 1 through June 30, commencing July 1, 1992, and terminating upon closure of the facility in accordance with the permit.

c. Annual reports shall be submitted to the Office of Management and Finance, Financial Services Division, by August 1 of each reporting year.

d. The annual report is to be provided for each individual permitted facility on a separate annual reporting form.

e. The annual reports for composting facilities shall identify the quantity (expressed in both dry- and wet-weight tons per year) and types of solid waste distributed for reuse and/or recycling and the ultimate use of the product or the quantity (expressed in both dry- and wet-weight tons per year) of solid waste disposed of. The report shall also identify the permitted facility used for the disposal of the waste.

2. Recordkeeping

a. The permit holder shall maintain at the facility all records specified in the application as necessary for the effective management of the facility and for preparing the required reports. These records shall be maintained for the life of the facility and shall be kept on file for at least three years after closure.

b. The permit holder shall maintain records of transporters transporting waste for processing at the facility. The records shall include the date of receipt of shipments of

waste and the transporter's solid waste identification number issued by the administrative authority.

c. Records kept on site for all facilities shall include, but not be limited to:

- i. copies of the applicable Louisiana solid waste rules and regulations;
- ii. the permit;
- iii. the permit application; and
- iv. permit modifications.

3. Personnel

a. All facilities shall have the personnel necessary to achieve the operational requirements of the facility.

b. Type III facilities receiving solid waste for composting shall have the number and levels of certified operators employed at the facility as required by the department in accordance with LAC 46:Part XXIII. Operator certificates shall be prominently displayed at the facility. The Board of Certification and Training for Solid Waste Disposal System Operators and the Office of Environmental Services, Waste Permits Division, shall be notified within 30 days of any changes in the employment status of certified operators.

D. Facility Operations

1. Facility Limitations

a. The receipt of hazardous waste shall be strictly prohibited and prevented. Any other wastes that present special handling problems may be excluded by the administrative authority.

b. The following types of wastes may be processed:

- i. *yard trash* and *woodwaste*, as defined in LAC 33:VII.115;
- ii. *manure*, as defined in LAC 33:VII.115;
- iii. *residential* or *commercial solid waste*, as defined in LAC 33:VII.115;
- iv. other materials deemed acceptable by the administrative authority.

c. The processing of infectious waste and asbestos waste shall be strictly prohibited and prevented.

d. No solid waste shall be deposited in standing water.

2. Facility Operational Plans. Operational plans shall be provided that describe in specific detail how the waste will be managed during all phases of processing operations. At a minimum, the plan shall address:

- a. the route the waste will follow after receipt;
- b. the sequence in which the waste will be processed within a unit;
- c. the method and operational changes that will be used during wet weather (Particular attention shall be given to maintenance of access roads and to water management.); and
- d. the recordkeeping procedures to be employed to ensure that all pertinent activities are properly documented.

3. Facility Operational Standards

a. The operation of composting facilities shall be by methods that result in the aerobic, biochemical decomposition of the organic material received.

b. The facility shall be designed and operated to control vectors, odors, dust, and litter.

c. The construction and turning frequency (if turning is necessary) of a composting facility shall be sufficient to maintain aerobic conditions and to produce a compost product in a time frame that is consistent with the

level of technology employed and acceptable to the administrative authority.

d. In-vessel composting shall be conducted in accordance with the manufacturer's specifications and these regulations.

e. The following special requirements apply to facilities handling residential or commercial waste.

i. If the compost is to be used exclusively for application to non-food-chain cropland, the criteria for a process to significantly reduce pathogens (LAC 33:VII.3007.Appendix D.1) shall be met. Otherwise, the facility shall meet the criteria for the processes to further reduce pathogens and for vector attraction reduction (LAC 33:VII.3007.Appendix D.2 and 3009.Appendix E).

ii. The facility shall include the following components:

(a). a receiving area, mixing area, curing area, compost storage area, drying and screening areas, and truck wash area located on surfaces capable of preventing groundwater contamination and resistant to rutting caused by vehicular traffic (Periodic inspections of the surface shall be made to ensure that the underlying soils and the surrounding land surface are not being contaminated.);

(b). a runoff collection system;

(c). a leachate collection system; and

(d). on-site/off-site treatment systems.

f. The following parameters are to be monitored and recorded during the operation in the time frame specified below (The samples taken for the parameters listed below shall be representative of the compost unit.):

i. temperature, daily;

ii. process odors, daily;

iii. blower operation, daily; and

iv. other parameters as deemed appropriate by the administrative authority.

g. Compost shall be classified based on the type of waste processed, compost maturity, particle size, and organic matter. The following characteristics shall be used.

i. Compost Maturity

(a). *Fresh Organic Matter*—raw material before undergoing decomposition (or at beginning of process).

(b). *Fresh Compost*—organic matter that has been through the thermophilic stage and has undergone partial decomposition.

(c). *Semimature Compost*—compost material that is at the mesophilic stage.

(d). *Mature Compost*—a highly stabilized product that results from exposing compost to a prolonged period of humidification and mineralization, beyond the stage of maturity. *Mature compost* shall have been cured for at least 60 days after the mesophilic stage is complete. Minimum starting moisture content for curing semimature compost shall be above 45 percent (by weight) and shall be raised to this value if necessary.

(e). A plot of time versus temperature (to indicate that the temperature of the compost has stabilized over a period of time) or other acceptable methods may be used to determine the level of maturity of compost as defined in Subclauses D.3.g.i.(b)-(d) of this Section.

ii. Particle Size. Particle size shall be determined by using the screen size, listed in Subclauses D.3.g.ii.(a)-(c) of this Section, that the compost passed through. Organic

matter content shall be determined by measuring the volatile solids content using the Environmental Protection Agency's (EPA's) approved methods.

(a). *Fine*: < 12 mm and organic matter > 25 percent.

(b). *Medium*: < 15 mm and organic matter > 30 percent.

(c). *Coarse*: < 30 mm and organic matter > 35 percent.

iii. **Moisture Content.** In the finished compost, the moisture content shall not exceed 55 percent (by weight). The moisture content shall be determined by using EPA's approved methods.

iv. **Concentration Levels.** The concentration level of finished compost shall be as shown in the following table.

| Metal Concentration Levels of Finished Compost (shown in mg/kg in dry weight) | | |
|--|------------|-------------|
| Parameter | Category I | Category II |
| Arsenic | <41 | 41-75 |
| Cadmium | <39 | 39-85 |
| Copper | <1500 | 1500-4300 |
| Lead | <300 | 300-840 |
| Mercury | <17 | 17-57 |
| Nickel | <420 | 420 |
| Selenium | <100 | 100 |
| Zinc | <2800 | 2800-7500 |

h. **Finished Compost**

i. The finished compost shall be sufficiently stable that it can be stored or applied to land without causing a health hazard or a detriment or nuisance to the environment as determined by the administrative authority.

ii. All distributed compost shall be accompanied with a label or leaflet that indicates, at a minimum, the type of waste from which the compost was derived, any restriction on the use of the product, and recommended application rates.

iii. Compost derived from residential or commercial waste shall meet the criteria of the processes to further reduce pathogens (LAC 33:VII.3007.Appendix D.2) or the process to significantly reduce pathogens (LAC 33:VII.3007.Appendix D.1) as provided in Clause D.3.e.i of this Section. Such compost shall not be offered for sale to or otherwise distributed to the general public unless it meets the criteria of the processes to further reduce pathogens and for vector attraction reduction (LAC 33:VII.3007.Appendix D.2 and 3009.Appendix E).

iv. Any compost made from solid waste that cannot be used pursuant to these regulations shall be reprocessed or disposed of in an approved solid waste facility.

v. Waste received at a composting facility shall be used as compost, sold as compost, or disposed of at a permitted disposal facility within 36 months after receipt.

vi. The sampling and testing methods shall be EPA's approved methods.

vii. Compost produced outside of the state of Louisiana and used or sold for use within the state shall comply with the requirements of these regulations.

viii. **Classes of Finished Compost**

(a). *Class M1*—compost that is made only from manure or manure with yard trash and/or woodwaste, which is mature or semimature, is fine or medium, and meets the

metals concentrations of Category 1 of Clause D.3.g.iv of this Section. This compost shall have unrestricted distribution except as provided in Clause D.3.e.i of this Section.

(b). *Class M2*—compost that is made only from manure or manure with yard trash and/or woodwaste, which is mature or semimature, is fine or medium, and meets the metals concentrations of Category 2 (but not of Category 1) of Clause D.3.g.iv of this Section. This compost shall be restricted to use with non-food-chain crops.

(c). *Class S1*—compost that is made from solid waste other than only manure or manure with yard trash and/or woodwaste, which is mature, is fine, and meets the metals concentrations in Category 1 of Clause D.3.g.iv of this Section. This compost shall have unrestricted distribution except as provided in Clause D.3.e.i of this Section.

(d). *Class S2*—compost that is made from solid waste other than only manure or manure with yard trash and/or woodwaste, which is mature or semimature, is fine or medium, and meets the metals concentrations in Category 1 or Category 2 of Clause D.3.g.iv of this Section, but does not meet the requirements of Class S1 compost. This compost shall be restricted to use with non-food-chain crops and shall not be used in areas where public contact is likely, such as parks or recreation areas.

(e). *Class YW*—compost that is made only from yard trash and/or woodwaste, which is mature or semimature, and is fine or medium. This compost shall have unrestricted distribution except as provided in Clause D.3.e.i of this Section.

(f). All classes of compost shall be used in accordance with the maximum allowable metal loading limits and annual allowable metal loading limits provided in the following tables and are subject to the restrictions provided in Clause D.3.e.i of this Section. The following metal loading limits shall apply provided specific plant nitrogen uptake and other limitations are met.

| Maximum Allowable Metal Loading Limits (lbs/acre) | |
|--|------|
| Arsenic | 37 |
| Cadmium | 35 |
| Copper | 1300 |
| Lead | 270 |
| Mercury | 15 |
| Nickel | 370 |
| Selenium | 89 |
| Zinc | 2500 |

| Annual Allowable Metal Loading Limits (lbs/acre) | |
|---|------|
| Arsenic | 1.85 |
| Cadmium | 1.75 |
| Copper | 65 |
| Lead | 135 |
| Mercury | 0.75 |
| Nickel | 18.5 |
| Selenium | 4.45 |
| Zinc | 125 |

ix. **Testing of Finished Compost.** Composite samples of batches produced at compost facilities shall be analyzed, in accordance with SW-846, at intervals of every

three months (see *liquid waste*, as defined in LAC 33:VII.115) for the following parameters:

- (a). moisture;
- (b). total nitrogen;
- (c). total phosphorus;
- (d). total potassium;
- (e). pH;
- (f). cadmium;
- (g). copper;
- (h). lead;
- (i). nickel;
- (j). zinc;
- (k). arsenic;
- (l). mercury;
- (m). selenium; and

(n). appropriate parameters for pathogens and vector attraction reduction analysis.

4. Sufficient equipment shall be provided and maintained at all facilities to meet the facilities' operational needs.

5. Segregation of Waste

a. Composting facilities involving residential and commercial solid waste shall provide a waste-segregation plan and a recyclables separation program that shall be instituted prior to composting operations.

b. Wastes not intended for composting shall be removed from the facility to a permitted facility at least every seven days. Storage of wastes not intended for composting shall be in a closed container that prevents vector and odor problems. The facility shall maintain a log of dates and volumes of waste removed from the facility due to its inability to be composted.

c. Recyclable waste removed from the waste stream shall be stored in a manner that prevents vector and odor problems and shall be removed from the facility at least every 90 days. The facility shall maintain a log of dates and volumes of recycled waste removed from the facility.

6. Facility Operations, Emergency Procedures, and Contingency Plans

a. A plan outlining facility operations and emergency procedures to be followed in case of accident, fire, explosion, or other emergencies shall be developed and filed with the Office of Environmental Services, Waste Permits Division, and with the local fire department and the closest hospital or clinic. The plans shall be updated and submitted annually or when implementation demonstrates that a revision is needed.

b. Training sessions concerning the procedures outlined in Subparagraph D.6.a of this Section shall be conducted annually for all employees working at the facility. A copy of the training program shall be filed with the Office of Environmental Services, Waste Permits Division.

c. Applicants for Type III facilities shall submit certifications from local public service entities.

i. Certifications shall be submitted from the local:

(a). fire department and emergency medical services agency regarding their compliance with 29 CFR 1910.120; and

(b). hospital as to whether it is able to accept and treat patients who are contaminated with hazardous materials.

ii. In the event any such local public service entity cannot certify that it is able to meet the requirements of Clause D.6.c.i of this Section, the applicant for a Type III facility shall identify in the permit application the closest fire department, emergency medical services agency, and hospital that can provide the services listed in Clause D.6.c.i of this Section.

d. Facility operators for a Type III facility shall be trained in awareness and hazardous waste operations in accordance with 29 CFR 1910.120.

E. Facility Closure Requirements

1. Notification of Intent to Close a Facility. All permit holders shall notify the Office of Environmental Services, Waste Permits Division, in writing at least 90 days before closure or intent to close, seal, or abandon any individual units within a facility and shall provide the following information:

- a. the date of the planned closure;
- b. changes, if any, requested in the approved closure plan; and
- c. the closure schedule and estimated cost.

2. Closure Requirements

a. Insect and rodent inspection shall be performed and documented before closure, and extermination measures shall be provided if required as a result of the final inspection.

b. All remaining waste shall be removed to a permitted facility for disposal.

c. The permit holder shall verify that the underlying soils have not been contaminated in the operation of the facility. If contamination exists, a remediation/removal program developed to meet the standards of LAC 33:VII.713.E.4 and 6 shall be provided to the Office of Environmental Services, Waste Permits Division. The Office of Environmental Compliance, Surveillance Division, shall conduct a closure inspection to verify that the facility was closed in accordance with the approved closure plan.

3. Upon determination by the administrative authority that a facility has completed closure in accordance with an approved plan, the administrative authority shall release the closure fund to the permit holder. The permit holder shall submit a request for the release of this fund to the Office of Management and Finance, Financial Services Division.

4. Financial assurance shall be adequate to cover removal of the maximum inventory at any given time, including (if part of closure) the cost of dismantling and removal of materials and buildings, etc.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 20:1001 (September 1994), amended by the Office of the Secretary, LR 24:2252 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2528 (November 2000), repromulgated LR 27:705 (May 2001), amended by the Office of Environmental Assessment, LR 30:2025 (September 2004), amended by the Office of the Secretary, Legal

§725. Standards Governing Separation and Woodwaste Processing Facilities (Type III)

A. Plans and Specifications

1. Facility plans, specifications, and operations represented and described in the permit application or permit modifications for all facilities shall be prepared under the supervision of and certified by a professional engineer, licensed in the state of Louisiana.

2. Levee Construction

a. The perimeter levees of all facilities shall be engineered to minimize wind and water erosion and shall have a grass cover or other protective cover to preserve structural integrity.

b. Levees or other protective measures shall be provided in order to protect the facility against a 100-year flood.

B. Facility Administrative Procedures

1. Reports

a. The permit holder shall submit annual reports to the Office of Management and Finance, Financial Services Division, indicating quantities and types of solid waste (expressed in both dry- and wet-weight tons per year), received from in-state generators and from out-of-state generators, during the reporting period. All calculations used to determine the amounts of solid waste received for processing during the annual-reporting period shall be submitted to the Office of Management and Finance, Financial Services Division. A form to be used for this purpose shall be obtained from the Office of Management and Finance, Financial Services Division, or through the department's website.

b. The reporting period for the processor annual report shall be from July 1 through June 30, commencing July 1, 1992, and terminating upon closure of the facility in accordance with the permit.

c. Annual reports shall be submitted to the Office of Management and Finance, Financial Services Division, by August 1 of each reporting year.

d. The annual report is to be provided for each individual permitted facility on a separate annual reporting form.

e. The annual report for separation facilities shall identify the quantity (expressed in both dry- and wet-weight tons per year) and types of solid waste transported for disposal. The report shall also identify the permitted facility used for disposal of the waste.

f. The annual reports for separation facilities shall identify the quantity (expressed in both dry- and wet-weight tons per year) and types of solid waste distributed for reuse and/or recycling and the ultimate use of the product.

g. The annual report for portable air curtain destructors shall identify the site and quantity of solid waste processed at each individual site.

2. Recordkeeping

a. The permit holder shall maintain at the facility all records specified in the application as necessary for the effective management of the facility and for preparing the required reports. These records shall be maintained for the life of the facility and shall be kept on file for at least three years after closure.

b. The permit holder shall maintain records of transporters transporting waste for processing at the facility. The records shall include the date of receipt of shipments of waste and the transporter's solid waste identification number issued by the Office of Environmental Services, Waste Permits Division.

c. Records kept on site for all facilities shall include, but not be limited to:

i. copies of the applicable Louisiana solid waste rules and regulations;

ii. the permit;

iii. the permit application; and

iv. permit modifications.

3. Personnel. All facilities shall have the personnel necessary to achieve the operational requirements of the facility.

4. Type III facilities receiving solid waste for processing shall have the number and levels of certified operators employed at the facility as required by the department in accordance with LAC 46:Part XXIII. Operator certificates shall be prominently displayed at the facility. The Board of Certification and Training for Solid Waste Disposal System Operators and the Office of Environmental Services, Waste Permits Division, shall be notified within 30 days of any changes in the employment status of certified operators.

C. Facility Operations

1. Facility Limitations

a. The receipt of hazardous waste shall be strictly prohibited and prevented. Any other wastes that present special handling or disposal problems may be excluded by the administrative authority.

b. Open burning shall not be practiced unless authorization is first obtained from the administrative authority and any other applicable federal, state, and local authorities.

c. Salvaging shall be prevented unless approved by the administrative authority.

d. Scavenging shall be prevented.

2. Facility Operational Plans. Operational plans shall be provided that describe in specific detail how the waste will be managed during all phases of processing operations. At a minimum, the plan shall address:

a. the route the waste will follow after receipt;

b. the sequence in which the waste will be processed or disposed of within a unit;

c. the method and operational changes that will be used during wet weather (Particular attention shall be given to maintenance of access roads and to water management.); and

d. the recordkeeping procedures to be employed to ensure that all pertinent activities are properly documented.

3. Facility Operational Standards

a. All containers shall provide containment of the wastes and thereby control litter, odor, and other pollution of adjoining areas.

b. Provisions shall be made for at least daily cleanup of the facility, including equipment and waste-handling areas.

c. No solid waste shall be stored long enough to cause a nuisance, health hazard, or detriment to the environment.

d. Treatment facilities for washdown and other contaminated water shall be provided.

e. Facilities shall have a plan for handling contaminated water.

f. Applications for air curtain destructors shall provide the specifications of the type of air curtain unit proposed and additionally adhere to the following requirements.

i. If the air curtain destructor is a trench burner, the approximate dimensions of the trench (pit) shall be specified.

ii. Ash shall be removed on a regular basis so as to not cause a hazard or nuisance.

iii. Water shall be applied to the ash before removal.

iv. Excessive smoldering of woodwaste shall be prevented during non-operating hours.

v. Only untreated *woodwaste* and *yard trash*, as defined in LAC 33:VII.115, may be accepted. No burning of treated woodwaste or other solid waste is permitted.

vi. All emissions and burning operations are subject to the Louisiana air quality regulations (LAC 33:Part III). These regulations and any other permit requirements shall be followed.

vii. Only clean fuels (diesel fuel No. 2, etc.) shall be used to light refuse.

viii. Burning shall be conducted between the hours of 8 a.m. and 5 p.m.

ix. Incoming woodwaste shall be inspected at the gate before unloading. If any waste other than woodwaste is detected, the entire load shall be rejected. All rejected loads shall be recorded in the daily log.

x. Storage of woodwaste and yard trash shall be in a designated area.

xi. The volume of woodwaste and yard trash stored on-site shall not exceed 10 days of the processing capacity of the air curtain destructor unless otherwise approved by the administrative authority.

xii. No waste or combustible material shall be stored within 50 feet of the air curtain destructor.

4. Sufficient equipment shall be provided and maintained at all facilities to meet the facilities' operational needs.

5. Facility Operations, Emergency Procedures, and Contingency Plans

a. A plan outlining facility operations and emergency procedures to be followed in case of accident, fire, explosion, or other emergencies shall be developed and filed with the Office of Environmental Services, Waste Permits Division, and with the local fire department and the closest hospital or clinic. The plans shall be updated annually or when implementation demonstrates that a revision is needed.

b. Training sessions concerning the procedures outlined in Subparagraph C.5.a of this Section shall be conducted annually for all employees working at the facility. A copy of the training program shall be filed with the Office of Environmental Services, Waste Permits Division.

c. Applicants for Type III facilities shall submit certifications from local public service entities.

i. Certifications shall be submitted from the local:

(a) fire department and emergency medical services agency regarding their compliance with 29 CFR 1910.120; and

(b) hospital as to whether it is able to accept and treat patients who are contaminated with hazardous materials.

ii. In the event any such local public service entity cannot certify that it is able to meet the requirements of Clause C.5.c.i of this Section, the applicant for a Type III facility shall identify in the permit application the closest fire department, emergency medical services agency, and hospital that can provide the services listed in Clause C.5.c.i of this Section.

d. Facility operators for a Type III facility shall be trained in awareness and hazardous waste operations in accordance with 29 CFR 1910.120.

D. Facility Closure Requirements

1. Notification of Intent to Close a Facility. All permit holders shall notify the Office of Environmental Services, Waste Permits Division, in writing at least 90 days before closure or intent to close, seal, or abandon any individual units within a facility and shall provide the following information:

a. the date of the planned closure;

b. changes, if any, requested in the approved closure plan; and

c. the closure schedule and estimated cost.

2. Closure Requirements

a. Insect and rodent inspection shall be performed and documented before closure, and extermination measures shall be provided if required as a result of the final inspection.

b. All remaining waste shall be removed to a permitted facility for disposal or properly disposed of on-site as provided for in LAC 33:VII.305.A.8. If waste is removed from the facility, documentation shall be provided that the material was properly disposed of in a permitted facility.

c. The permit holder shall verify that the underlying soils have not been contaminated from the operation of the facility. If contamination exists, a remediation/removal program developed to meet the standards of LAC 33:VII.713.E.4 and 6 shall be provided to the Office of Environmental Services, Waste Permits Division. The Office of Environmental Compliance, Surveillance Division, shall conduct a closure inspection to verify that the facility was closed in accordance with the approved closure plan.

3. Upon determination by the administrative authority that a facility has completed closure in accordance with an approved plan, the administrative authority shall release the closure fund to the permit holder. The permit holder shall submit a request for the release of this fund to the Office of Management and Finance, Financial Services Division.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 20:1001 (September 1994), LR 22:280 (April 1996), amended by the Office of the Secretary, LR 24:2252 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2528 (November 2000), repromulgated LR 27:705 (May 2001), amended by the Office of Environmental Assessment, LR 30:2026 (September 2004), amended by the Office of the

Secretary, Legal Affairs Division, LR 31:2496 (October 2005), LR 33:1073 (June 2007).

NOTE: Subchapter E has moved to Chapter 13.

NOTE: §727 has moved to §§1301, 1303, 1305, and 1399.

Chapter 8. Standards Governing General Facility Geology, Subsurface Characterization, and Facility Groundwater Monitoring for Type I, I-A, II, II-A, and III Facilities [Formerly §709.C-E]

§801. General Facility Geology

A. The following standards regarding facility geology are applicable to all Type I, Type I-A, Type II, Type II-A, and Type III facilities.

1. The subsurface soils and groundwater conditions at facilities shall be characterized by a geologist, or a professional engineer licensed in the state of Louisiana with expertise in geotechnical engineering and hydrogeology. Both field boring logs and laboratory results shall be included as part of the permit application.

2. Except as provided in Paragraph A.3 of this Section, facilities shall have natural soils of low permeability for the area occupied by the solid waste facility, including vehicle parking and turnaround areas, that shall provide a barrier to prevent any penetration of surface spills into groundwater aquifers underlying the area or to an underlying sand or other permeable stratum that would provide a conduit to such aquifers.

3. A design for surfacing natural soils that do not meet the requirement in Paragraph A.2 of this Section shall be prepared and installed under the supervision of a professional engineer, licensed in the state of Louisiana, with expertise in geotechnical engineering and hydrogeology. Written certification by the engineer that the surface satisfies the requirements of Paragraph A.2 of this Section shall be provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1075 (June 2007).

§803. Subsurface Characterization

A. Boring Requirements

1. Boring Requirements Applicable to Type I, II, and III Facilities

a. Borings shall be installed and plugged and abandoned in accordance with the standards in this Chapter, as well as the guidelines established in the latest versions of the LDEQ's and Louisiana Department of Transportation and Development's (LDOTD's) *Construction of Geotechnical Boreholes and Groundwater Monitoring Systems Handbook* and the LDOTD's Water Well Rules, Regulations, and Standards in LAC 56. The administrative authority may approve other forms of geological investigation for Type III facilities, such as hand-augered borings, test pits, excavations, etc., provided that subsurface conditions are characterized by an individual who meets the requirements in LAC 33:VII.801.A, and any holes, test pits, etc., are properly plugged and abandoned.

b. Boring logs shall be submitted for each borehole, including boreholes for monitoring wells and piezometers, and shall include information for boring logs established in the latest versions of the LDEQ's and LDOTD's *Construction of Geotechnical Boreholes and Groundwater*

Monitoring Systems Handbook and the LDOTD's Water Well Rules, Regulations, and Standards in LAC 56, including the ground surface elevation with respect to NGVD, lithology and the intervals that were cored continuously, and the depth of first encountered groundwater.

c. If the ground surface elevation has changed in any permitted area due to construction or other activities at the facility, than the affected borings shall be re-surveyed to reflect the current ground surface elevation.

d. A plan-view map shall be provided that shows existing topographic contours and locations of all borings, monitoring wells, and piezometers with respect to the facility.

e. A detailed plan-view drawing shall be provided that shows the proposed elevations of the base of units prior to installation of the liner system and boring locations.

2. Requirements Applicable to Type I and Type II Facilities

a. Geotechnical borehole spacing shall be no greater than 450 feet (minimum of four borings required) except for Type II landfarms that require a sufficient spacing between borings to adequately characterize the subsurface soils and groundwater conditions for the facility.

b. Existing permitted facilities that are planning a lateral and/or vertical expansion or changing the permitted lowest point of excavation within the permitted footprint may submit a work plan to the Office of Environmental Assessment, Environmental Technology Division, to demonstrate that an alternative to the geotechnical borehole minimum spacing requirements set forth in Subparagraph A.2.a of this Section will achieve adequate characterization of the subsurface soils and groundwater conditions for the facility. The proposed alternative method shall include a demonstration that the subsurface soils and groundwater conditions have been adequately characterized or shall propose additional actions necessary to achieve adequate characterization. If the department concurs that adequate characterization has been performed, the spacing requirements of Subparagraph A.2.a of this Section may be waived.

c. The elevation (NGVD) of the lowest point of excavation shall be provided.

d. All boreholes shall extend to a depth of at least 30 feet below the elevation (NGVD) of the lowest point of excavation (or the lowest point of the zone of incorporation, for landfarms). At least 10 percent of the borings (minimum of three borings) shall extend to 100 feet below grade level to characterize the shallow geology.

e. All borings shall be continuously sampled to at least 30 feet below the elevation (NGVD) of the lowest point of excavation (or lowest point of the zone of incorporation, for landfarms), with the use of thin-wall and/or split-spoon devices or similar coring devices. After 30 feet, samples shall be at a maximum of 5-foot intervals. The Office of Environmental Assessment, Environmental Technology Division, may approve other forms of boreholes logging on a case-by-case basis and with proper justification.

3. Boring Requirements Applicable to Type III Facilities

a. Type III facilities shall install a minimum of three borings and at least one boring for every 8 acres of regulated

unit(s) to a minimum depth of 5 feet below the lowest point of excavation.

b. All borings shall be continuously sampled to at least 5 feet below the lowest point of excavation with the use of the administrative authority's approved form of geological investigation device.

c. Ground surface elevations (NGVD) of the boring location and the lowest point of excavation shall be surveyed or estimated through the use of USGS quadrangle maps.

d. Logs of borings and other forms of geological investigation approved by the administrative authority for Type III facilities shall be submitted on a geologic cross section and shall include applicable information required in Subparagraph C.2.a of this Section.

B. Groundwater Flow Determination Requirements Applicable to Type I and Type II Facilities

1. Groundwater flow directions shall be determined using a minimum of three piezometers or monitoring wells in each water-bearing zone including zones that comprise the uppermost aquifer and uppermost water-bearing permeable zone(s) (if present).

2. Piezometers and monitoring wells that are used to characterize groundwater flow directions shall be constructed, and well-completion diagrams submitted, in accordance with the applicable well construction standards in LAC 33:VII.805.A.3.

3. The reference point of each piezometer and monitoring well that is used for measuring water levels shall be surveyed by a professional surveyor, licensed in the state of Louisiana.

4. Water levels of piezometers and monitoring wells that are used for determining groundwater flow directions shall be measured at least four times in a one-year period (quarterly) to provide seasonal and temporal fluctuations in groundwater flow rates and directions.

C. Geology and Groundwater Flow Characterization Requirements Applicable to Type I and II Facilities

1. Regional Geology and Groundwater Flow Characterization

a. A geologic cross-section from available published information that depicts the stratigraphy to a depth of at least 200 feet below the ground surface shall be provided.

b. The areal extent, thickness, and depth to the upper surface, and any interconnection of aquifers, from all available information shall be provided for all recognized aquifers that have their upper surfaces within 200 feet of the ground surface.

c. The directions and rates of groundwater flow shall be provided for all recognized aquifers that have their upper surface within 200 feet of the ground surface, shown on potentiometric maps.

2. Facility Geology and Groundwater Flow Characterization

a. Geologic cross sections shall be provided for each transect (line of borings) and shall depict the following information in relation to NGVD:

i. lithologic and boring log data from all borings drilled at the facility, including borings for existing, as well as plugged and abandoned, monitoring wells and piezometers;

ii. locations and depths of borings, monitoring wells, and piezometers;

iii. excavation depths (or depths of the zone of incorporation, for landfarms) on applicable cross sections;

iv. screen intervals of all existing and plugged and abandoned monitoring wells and piezometers;

v. other applicable features such as faults, slurry walls, groundwater dewatering systems, etc.; and

vi. identification of individual stratigraphic units, including units that comprise the uppermost aquifer, uppermost water-bearing permeable zone(s) (if present), lower confining unit, and confining unit that underlies the uppermost water-bearing permeable zone(s) (if present).

b. The areal extent, depths, and thickness of all permeable zones to a depth of at least 30 feet below the lowest point of excavation (or zone of incorporation, for landfarms) shall be provided on structure contour maps and isopach maps, including the zones that comprise the uppermost aquifer and uppermost water-bearing permeable zone(s) (if present). Structure contour maps and isopach maps shall display the location of the facility, boring locations, and corresponding elevation or thickness measurement at each boring location.

c. The areal extent, depths, and thickness of the lower confining unit for the uppermost aquifer and the confining unit underlying the uppermost water-bearing permeable zone(s) (if present) shall be provided on structure contour maps and isopach maps. Structure contour maps and isopach maps shall display the location of the facility, boring locations, and corresponding elevation or thickness measurement at each boring location.

d. Any faults that are mapped as existing through the facility shall be displayed on structure contour maps and shall show the fault trace and arrows pointing to the downthrown side of fault.

e. At least four scaled potentiometric surface maps shall be provided over a one-year period (quarterly) for each saturated permeable zone to a depth of at least 30 feet below the lowest point of excavation (or zone of incorporation, for landfarms), including the zone that comprises the uppermost aquifer and uppermost water-bearing permeable zone(s) (if present). Scaled potentiometric surface maps shall display the location of the facility, monitoring well and piezometer locations, and corresponding water level elevation measurement at each well location.

f. Characterization of groundwater flow directions shall be provided between saturated permeable zones. The characterization shall include the use of various illustrations such as potentiometric surface maps, flow nets depicting vertical and horizontal flow directions, etc.

g. Discussion of any change in groundwater flow direction anticipated to result from any facility activities shall be provided.

h. Establishment of zones that comprise the uppermost aquifer, uppermost water-bearing permeable zone(s) (if present), and lower confining unit shall be provided.

i. Groundwater flow rates and calculations shall be provided for each zone that comprises the uppermost aquifer and uppermost water-bearing permeable zone(s) (if present).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1075 (June 2007).

§805. Facility Groundwater Monitoring

A. Groundwater Monitoring System. The following facility groundwater monitoring standards are applicable to all Type I and Type II facilities.

1. At each facility, a groundwater-monitoring system shall be installed that consists of a sufficient number of wells, installed at appropriate locations and depths, in accordance with Paragraph A.2 of this Section, to yield groundwater samples from the uppermost aquifer, and from the uppermost water-bearing permeable zone(s), to yield sufficient quantities of water for sampling that:

a. represent the quality of the background groundwater that has not been affected by leakage from a unit; and

b. represent the quality of groundwater passing the relevant point of compliance. For the purposes of these regulations, the *relevant point of compliance* is the vertical surface that is located no more than 150 meters downgradient from the unit being monitored and extends down into the uppermost aquifer underlying the facility and any other permeable zones being monitored. The distance may be reduced by the administrative authority. The relevant point of compliance shall be on property owned or controlled by the permit holder and shall be selected based on at least the following factors:

i. hydrological characteristics of the facility and the surrounding land;

ii. volume and physical and chemical characteristics of the leachate;

iii. quantity, quality, and direction of flow of groundwater;

iv. proximity and withdrawal rate of the groundwater users;

v. availability of alternative drinking water supplies;

vi. existing quality of the groundwater, including other sources of contamination and their cumulative impacts on the groundwater, and whether the groundwater is currently used or reasonably expected to be used for drinking water; and

vii. public health, safety, and welfare effects.

2. Location of Wells

a. Enough monitoring wells shall be located hydraulically upgradient of the facility to yield samples that represent background groundwater quality as required in Paragraph A.1 of this Section.

b. A minimum of one upgradient well per zone monitored is required.

c. Monitoring wells other than upgradient of the facility may be sampled for background groundwater quality if:

i. hydrologic conditions do not allow the permit holder to determine which wells are hydraulically upgradient; or

ii. sampling at other wells will provide an indication of background groundwater quality that is more representative than sampling of upgradient wells.

d. Enough monitoring wells shall be located hydraulically downgradient from the facility to yield samples that are representative of the groundwater passing the relevant point of compliance. Downgradient monitoring well locations and screen intervals shall target the most likely contaminant pathways. At least two downgradient wells per zone monitored shall be provided. The downgradient wells shall be screened in the same zone as the upgradient wells. Spacing between downgradient wells shall not exceed 800 feet.

e. The number, spacing, and depths of monitoring wells shall be determined based upon site-specific technical information that shall include thorough characterization of:

i. aquifer thickness, groundwater flow rate, and groundwater flow direction including seasonal and temporal fluctuations in groundwater flow; and

ii. saturated and unsaturated geologic units and fill materials overlying the uppermost aquifer, materials comprising the uppermost aquifer, and materials comprising the confining unit defining the lower boundary of the uppermost aquifer, including, but not limited to, thickness, stratigraphy, lithology, hydraulic conductivities, porosities, and effective porosities.

f. The administrative authority will consider for approval multi-unit groundwater monitoring systems, provided these systems meet the requirements of Paragraph A.1 of this Section and will be as protective of human health and the environment as groundwater monitoring systems for individual units.

g. The administrative authority may modify the requirements of this Subsection for site-specific considerations in approving groundwater monitoring systems for ditches.

3. Well Construction

a. Well construction shall be in accordance with the Water Well Rules, Regulations, and Standards, as adopted by the Louisiana Department of Transportation and Development, Water Resources Section, in LAC 56, as well as the guidelines established in the latest version of the LDEQ's and LDOTD's *Construction of Geotechnical Boreholes and Groundwater Monitoring Systems Handbook*.

b. Construction of monitoring wells for facilities regulated by the department shall require approval of the administrative authority prior to construction.

c. In addition to the construction standards set forth in LDOTD's Water Well Rules, Regulations, and Standards, the following is required for monitoring wells.

i. All wells shall have protective casing with locking covers and a secure locking device in place.

ii. All wells shall have guard posts firmly anchored outside the well slab, but not in contact with the slab.

iii. The maximum allowable screen length shall not exceed 10 feet.

iv. A sign or plate shall be permanently affixed to the protective well casing and shall prominently display:

(a) the well identification number;

(b) identification of the well as upgradient or downgradient;

(c) the elevation of the top of the well casing in relation to NGVD;

- (d). screen depth in relation to NGVD; and
- (e). the date of well installation and any subsequent repairs.

4. Post Construction. Within 90 days after construction of the wells, the permit holder or applicant shall submit to the Office of Environmental Services, Waste Permits Division, well-completion details to verify that the wells were constructed according to the approved specifications and to document construction procedures. A permit modification fee will not be required. Well-completion details shall include, but are not limited to:

- a. daily field notes documenting construction procedures and any unusual occurrences, such as grout loss, etc.;

- b. a boring log for each well including surface elevation with respect to NGVD or comparable reference points; and

- c. well-completion diagrams for each well showing all pertinent features, such as the elevation of the reference point for measuring groundwater levels, screen interval, and ground surface. If features change from the approved plans, then a permit-modification request shall be submitted in accordance with LAC 33:VII.517.

5. Plugging and Abandonment of Monitoring Wells and Geotechnical Borings

- a. The Water Well Rules, Regulations, and Standards, as adopted by the Louisiana Department of Transportation and Development, Water Resources Section, in LAC 56, as well as the guidelines established in the latest version of the LDEQ's and LDOTD's *Construction of Geotechnical Boreholes and Groundwater Monitoring Systems Handbook*, shall apply to all plugging and abandonment of wells and holes including, but not limited to, observation wells, monitoring wells, piezometer wells, leak-detection wells, assessment wells, recovery wells, abandoned pilot holes, test holes, and geotechnical boreholes.

- b. In addition to the standards in LDOTD's Water Well Rules, Regulations, and Standards and in the latest version of the LDEQ's and LDOTD's *Construction of Geotechnical Boreholes and Groundwater Monitoring Systems Handbook*, the following standards shall apply to plugging and abandonment.

- i. For any well, the primary method of plugging and abandonment shall be removal of the well's casing and other components of the well, including, but not limited to, the screen, grout, bentonite seal, filter pack, concrete slab, protective casing, guard posts, and native soil in immediate contact with the grout, and subsequent installation of cement-bentonite grout, from the bottom of the resulting borehole to the ground surface using the tremie method.

- ii. In areas where all or a part of the well's casing and other components of the well cannot be plugged and abandoned in accordance with the procedure stated in Clause A.5.b.i of this Section, the well shall be plugged and abandoned by installation of cement-bentonite grout inside the well's casing, from the bottom of the well to the ground surface, provided that the annular seal is demonstrated to be adequately sealed and the following items are submitted:

- (a). supporting documentation, prior to plugging the well, that demonstrates that removal of all or part of the well's casing and other components of the well in accordance

with the procedure stated in Paragraph A.5 of this Section will be detrimental to the environment; and/or

- (b). certification and supporting documentation by a qualified professional well constructor that shows that removal of the well's casing was attempted and that continued attempts to remove all or a part of the well's casing and other components of the well, as stated in Paragraph A.5 of this Section, would have been detrimental to the environment.

- iii. After plugging and abandoning a well, all surface features of the well, including, but not limited to, the concrete slab, guard posts, and protective casing, shall be dismantled and disposed of in an environmentally sound manner, and the surface shall be restored to its original condition.

- iv. The permit holder shall notify the Office of Environmental Assessment, Environmental Technology Division, of the plugging and abandonment of monitoring wells or geotechnical borings and keep records of such abandonments.

6. Monitoring wells, piezometers, and other measurement, sampling, and analytical devices shall be operated and maintained so that they perform to design specifications throughout the life of the monitoring program.

B. Groundwater Sampling and Analysis Requirements

1. A groundwater-monitoring program shall be implemented, at each facility, that includes consistent sampling and analysis procedures that ensure monitoring results are representative of groundwater quality at the background and downgradient well locations.

2. A groundwater sampling and analysis plan shall be prepared that meets the requirements of this Subsection, as well as the requirements of LAC 33:VII.3005. Appendix C, and that includes procedures and techniques for:

- a. sample collection that ensures that collected samples are representative of the zones being monitored and that prevents cross-contamination of or tampering with samples;

- b. sample preservation and shipment that ensure the integrity and reliability of the sample collected for analysis;

- c. chain of custody control;

- d. quality-assurance/quality-control, including detection limits, precision and accuracy of analyses, rinsate samples, field blanks, trip blanks, field duplicates, and matrix spikes/matrix spike duplicates; and

- e. statistical evaluation of the groundwater monitoring data for each parameter or constituent sampled at each monitoring well.

3. The sampling and analysis plan shall provide the sampling frequency and include:

- a. the selection of parameters or constituents to be sampled and analyzed during detection monitoring, and justification for the parameters or constituents, where applicable;

- b. identification of the analytical procedures to be followed (reference source of analytical method); and

- c. the practical quantitation limit (PQL) for each parameter or constituent.

4. The PQL for each groundwater monitoring parameter or constituent shall be:

- a. the lowest concentration level that can be reliably achieved within specified limits of precision and accuracy

during routine laboratory operating conditions that are available to the facility; and

b. equal to or lower than the groundwater protection standard for that parameter or constituent as set in accordance with LAC 33:I.Chapter 13, when applicable.

5. Background groundwater quality shall be established for the facility in a hydraulically upgradient well, or other well as provided in Subparagraph A.2.c of this Section, for each groundwater parameter or constituent.

6. Statistical Methods

a. The number of samples collected to establish groundwater quality data shall be consistent with the appropriate statistical procedures used. A decision tree diagram is included in LAC 33:VII.3005.Appendix C, as a reference in the selection of an appropriate statistical procedure.

b. The statistical methods used in evaluating groundwater data shall be specified in the sampling and analysis plan for each parameter or constituent to be monitored. The statistical test chosen shall be conducted separately for each parameter or constituent in each well. One of the following statistical methods shall be used:

i. a parametric analysis of variance (ANOVA) followed by multiple comparisons procedures to identify statistically significant evidence of contamination. The method shall include estimation and testing of the contrasts between each compliance well's mean and the background mean levels for each parameter or constituent;

ii. an analysis of variance (ANOVA) based on ranks followed by multiple comparisons procedures to identify statistically significant evidence of contamination. The method shall include estimation and testing of the contrasts between each compliance well's median and the background median levels for each parameter or constituent;

iii. a tolerance or prediction interval procedure in which an interval for each parameter or constituent is established from the distribution of the background data, and the level of each parameter or constituent in each compliance well is compared to the upper tolerance or prediction limit;

iv. a control chart approach that gives control limits for each parameter or constituent; or

v. another statistical test method that meets the performance standards of Subparagraph B.6.c of this Section. The permit holder shall place a justification for this alternative in the operating record and notify the administrative authority of the use of this alternative test. The justification shall demonstrate that the alternative method meets the performance standards of Subparagraph B.6.c of this Section.

c. Any statistical method chosen under Subparagraph B.6.b of this Section shall comply with the following performance standards, as appropriate.

i. The statistical method used to evaluate groundwater monitoring data shall be appropriate for the distribution of the parameters or constituents. If the distribution of the chemical parameters or constituents or hazardous parameters or constituents is shown by the permit holder to be inappropriate for a normal theory test, then the data should be transformed or a distribution-free theory test should be used. If the distributions for the parameters or

constituents differ, more than one statistical method may be needed.

ii. If an individual well comparison procedure is used to compare an individual compliance well parameter or constituent concentration with background parameters or constituent concentrations or a groundwater protection standard, the test shall be done at a Type I error level no less than 0.01 for each testing period. If a multiple comparisons procedure is used, the Type I experiment-wide error rate for each testing period shall be no less than 0.05; however, the Type I error of no less than 0.01 for individual well comparisons shall be maintained. This performance standard does not apply to tolerance intervals, prediction intervals, or control charts.

iii. If a control chart approach is used to evaluate groundwater monitoring data, the specific type of control chart and its associated parameter or constituent values shall be protective of human health and the environment. The parameters or constituents shall be determined after considering the number of samples in the background data base, the data distribution, and the range of the concentration values for each parameter or constituent of concern.

iv. If a tolerance interval or a prediction interval is used to evaluate groundwater monitoring data, the levels of confidence and, for tolerance intervals, the percentage of the population that the interval shall contain, shall be protective of human health and the environment. These parameters or constituents shall be determined after considering the number of samples in the background data base, the data distribution, and the range of the concentration values for each parameter or constituent of concern.

v. The statistical method shall account for data below the limit of detection with one or more statistical procedures that are protective of human health and the environment. Any practical quantitation limit (PQL) that is used in the statistical method shall be the lowest concentration level that can be reliably achieved within specified limits of precision and accuracy during routine laboratory operating conditions that are available to the facility.

vi. If necessary, the statistical method shall include procedures to control or correct for seasonal and spatial variability as well as temporal correlation in the data.

d. The permit holder shall determine whether or not there is a statistically significant increase over background values for each parameter or constituent required in the particular groundwater monitoring program that applies to the facility, as determined in Subsections C and D of this Section.

i. In determining whether a statistically significant increase has occurred, the permit holder shall compare the groundwater quality of each parameter or constituent at each monitoring well designated in accordance with Subparagraph A.1.b of this Section to the background value of that parameter or constituent, according to the statistical procedures and performance standards specified under Subparagraphs B.6.b and c of this Section.

ii. Within 90 days after the date of sampling, the permit holder shall determine whether there has been a statistically significant increase over background at each monitoring well.

C. Detection Monitoring Program

1. All Type I and II facilities shall conduct a detection monitoring program as described in this Subsection.

2. Initial Sampling

a. For a new facility, monitoring wells shall be sampled and the groundwater monitoring data for a sampling event shall be submitted to the Office of Environmental Assessment, Environmental Technology Division, before waste is accepted.

b. For an existing facility with no wells in place at the time of the application submittal or at the time at which the facility becomes subject to these regulations, the groundwater monitoring data shall be submitted to the Office of Environmental Assessment, Environmental Technology Division, within 90 days after installation of the monitoring wells.

c. A minimum of four independent samples from each well (upgradient and downgradient) shall be collected and analyzed during the initial sampling event for a facility. The initial sampling event shall consist of quarterly sampling over a 1-year period. Thereafter, at least one sample shall be collected and analyzed at each well for each sampling event.

3. After the initial 1-year sampling event, sampling and analysis of all wells shall be conducted every six months.

4. The groundwater monitoring program shall be conducted for the life of the facility and for the duration of the post-closure care period of the facility, which is specified in LAC 33:VII.721.E or 723.E. Groundwater monitoring may be extended beyond the period specified if deemed necessary by the administrative authority.

5. The permit holder or applicant shall submit three bound copies (8 1/2 by 11 inches) of a report of all groundwater sampling results to the Office of Environmental Assessment, Environmental Technology Division, no later than 90 days after each sampling event.

a. The reports shall be submitted on forms provided by the administrative authority and shall include, at a minimum:

i. documentation of the chain of custody of all sampling and analyses;

ii. scaled potentiometric surface maps showing monitoring well and piezometer locations and groundwater elevations with respect to NGVD for each stratum monitored;

iii. plots by well showing concentration of parameters or constituents versus time. If the facility is conducting assessment or corrective action monitoring, then in addition to the plots by well of concentration versus time, an isopleth map shall be submitted for each zone monitored; and

iv. a statement of whether a statistically significant difference in concentration over background concentrations is detected.

b. The administrative authority may waive or require information to be included in each groundwater sampling report.

6. If a statistically significant increase over background concentrations is determined for one or more parameters or constituents required to be monitored, the permit holder shall:

a. submit to the Office of Environmental Assessment, Environmental Technology Division:

i. within 14 days after the determination is made, a report that identifies which parameters or constituents were determined to have shown statistically significant changes over background levels; and

ii. written notification at least 14 days prior to conducting any verification resampling event; and

b. within 90 days after the determination is made:

i. initiate an assessment monitoring program for the facility meeting the requirements of Subsection D of this Section; or

ii. submit a report to the Office of Environmental Assessment, Environmental Technology Division, demonstrating that a source other than the facility being sampled caused the contamination or that the statistically significant increase resulted from an error in sampling, analysis, statistical evaluation, or natural variation in groundwater quality. If the administrative authority approves this demonstration, in writing, the permit holder may continue the detection monitoring program. If the administrative authority does not approve the demonstration, in writing, the permit holder shall establish an assessment monitoring program meeting the requirements of Subsection D of this Section within 90 days after the determination in this Paragraph is made.

7. Detection Monitoring Parameters or Constituents

a. During detection monitoring, Type I landfills and Type I surface impoundments (except Type I landfills that are also Type II landfills and Type I surface impoundments that are associated with such Type I landfills) shall monitor for at least 10 chemical parameters or constituents, both inorganic and organic, that are indicator parameters or constituents or reaction products of the waste and that provide a reliable indication of the presence of contaminants in the groundwater. The administrative authority may reduce the number of parameters, if appropriate, based on site-specific and waste-specific consideration. Selection of these parameters or constituents is subject to the approval of the administrative authority and shall be based on the following factors:

i. types, quantities, and concentrations of constituents in the wastes disposed of at the facility;

ii. mobility, stability, and persistence of waste constituents or their reaction products in the unsaturated zone beneath the facility;

iii. detectability of indicator parameters, waste constituents, or their reaction products in the groundwater; and

iv. concentrations or values and coefficients of variation of the proposed monitoring parameters or constituents in the background groundwater at the facility.

b. During detection monitoring, Type II landfills, including Type II surface impoundments associated with Type II landfills, shall be monitored for all the parameters or constituents listed in LAC 33:VII.3005.Appendix C, Table 1.

c. During detection monitoring, Type I landfarms, including runoff and containment areas (ROCAs) or surface impoundments associated with Type I landfarms, shall be monitored for the same parameters or constituents as provided for Type II landfarms in Subparagraph C.7.d of this Section and also for at least six parameters or constituents,

both organic and inorganic, that are intrinsic to the wastes being disposed at the facility. The intrinsic parameters or constituents shall be selected on the basis of the factors in Clauses C.7.a.i-iv of this Section and shall be subject to the approval of the administrative authority.

d. During detection monitoring, Type II landfarms, including runoff and containment areas (ROCA) or surface impoundments associated with such landfarms, shall be monitored for 5-day biochemical oxygen demand (BOD₅), fecal coliform, total dissolved solids (TDS), nitrate, total Kjeldahl nitrogen, and polychlorinated biphenyls (PCBs), if applicable.

e. Type II surface impoundments shall be monitored for the same parameters or constituents as provided for Type II landfarms in Subparagraph C.7.d of this Section.

f. The administrative authority may waive or require additional parameters or constituents, based on site-specific or waste-specific information.

D. Assessment Monitoring Program for Type I and Type II Facilities

1. An assessment monitoring program as described in this Subsection is required to be conducted at Type I and Type II facilities whenever a statistically significant increase over background concentrations is detected for one or more of the parameters or constituents sampled and analyzed during the detection monitoring program.

2. The assessment monitoring parameters for:

a. Type II landfills and associated Type II impoundments shall be the parameters listed in Table 2 of LAC 33:VII.3005.Appendix C; and

b. Type I and Type II facilities, other than Type II landfills and associated Type II impoundments, shall be the detection monitoring parameters or constituents listed in Table 1 of LAC 33:VII.3005.Appendix C, although the administrative authority may add additional parameters or constituents on a site-specific and waste-specific basis.

3. Within 90 days of triggering an assessment monitoring program, and annually thereafter, the permit holder shall sample and analyze the groundwater for the assessment monitoring parameters or constituents. A minimum of one sample from each downgradient well shall be collected and analyzed during each sampling event. For any parameter or constituent detected in the downgradient wells as a result of sampling for the assessment monitoring parameters or constituents, a minimum of four independent samples from each well (background and downgradient) shall be collected and analyzed to establish background for the parameters or constituents.

a. The administrative authority may specify an appropriate subset of the wells to be sampled and analyzed for assessment monitoring parameters or constituents during assessment monitoring.

b. The administrative authority may delete any of the assessment monitoring parameters or constituents for a facility if it can be shown that the omitted parameters or constituents are not reasonably expected to be in or derived from the waste contained in the unit.

4. No later than 90 days after the completion of the initial or subsequent sampling events for all assessment monitoring parameters or constituents required in Paragraph D.3 of this Section, the permit holder shall submit a report to

the Office of Environmental Assessment, Environmental Technology Division, identifying the assessment monitoring parameters or constituents that have been detected. No later than 180 days after completion of the initial or subsequent sampling events for all assessment monitoring parameters or constituents required in Paragraph D.3 of this Section, the permit holder shall:

a. resample all wells and analyze for all detection monitoring parameters or constituents and for those assessment monitoring parameters or constituents that are detected in response to Paragraph D.3 of this Section. At least one sample shall be collected from each well (background and downgradient) during these sampling events. This sampling shall be repeated semiannually thereafter;

b. establish background groundwater concentrations for any parameter or constituent detected in accordance with Paragraph D.3 or 4 of this Section; and

c. establish groundwater protection standards for all parameters or constituents detected in accordance with Paragraph D.3 or 4 of this Section. The groundwater protection standards shall be established in accordance with Paragraph D.8 of this Section.

5. If the concentrations of all assessment monitoring parameters or constituents are shown to be at or below background values, using the statistical procedures in Paragraph B.6 of this Section or other EPA-approved methods for comparison to a fixed limit (such as an MCL), for two consecutive sampling events, the permit holder shall notify the Office of Environmental Assessment, Environmental Technology Division, and upon written approval of the administrative authority, may return to detection monitoring.

6. If the concentrations of any assessment monitoring parameters or constituents are above background values, but all concentrations are below the groundwater protection standard established under Paragraph D.8 of this Section, using the statistical procedures in Paragraph B.6 of this Section or other EPA-approved methods for comparison to a fixed limit (such as an MCL), the permit holder will be placed in assessment monitoring for the life of the facility or until the assessment monitoring parameters are below the established background values. As part of the corrective action development, the permit holder shall submit a work plan for approval to the Office of Environmental Assessment, Environmental Technology Division.

a. This work plan shall include:

i. proposal of additional groundwater wells outside the area of contamination in order to demonstrate that the facility has control of the plume and/or source of contamination;

ii. proposal of semiannual groundwater monitoring reports demonstrating that the concentrations of the constituents of concern is not increasing;

iii. a scaled figure depicting the location of the area of investigation, existing and proposed groundwater monitoring wells, and property boundaries;

iv. scaled potentiometric maps depicting water elevations of all existing and proposed monitoring wells. These maps shall be submitted as part of the semiannual groundwater monitoring reports; and

v. an isopleth map for each well of all parameters or constituents, or plots by well concentration of parameters or constituents verses time.

b. The Office of Environmental Assessment, Environmental Technology Division, may request additional information based on the data submitted in the work plan.

7. If one or more assessment monitoring parameters or constituents are detected at statistically significant levels above the groundwater protection standard established in Paragraph D.8 of this Section, in any sampling event, using the statistical procedures in Paragraph B.6 of this Section or other EPA-approved methods for comparison to a fixed limit (such as an MCL), the permit holder shall, within 14 days of the determination, notify all appropriate local government officials and submit a report to the Office of Environmental Assessment, Environmental Technology Division, identifying the assessment monitoring parameters or constituents that have exceeded the groundwater protection standard. The permit holder shall comply with one of the following requirements.

a. The permit holder shall:

i. within 90 days after the determination is made, submit four bound copies (8 1/2 x 11 inches) of an assessment plan to the Office of Environmental Assessment, Environmental Technology Division, as well as any necessary permit modification to the Office of Environmental Services, Waste Permits Division, that provides for:

(a). characterization of the nature and extent of the release by installing and sampling additional monitoring wells as necessary;

(b). installation of at least one additional monitoring well at the facility boundary in the direction of the contaminant migration and sampling of this well in accordance with Subparagraph D.4.b of this Section; and

(c). a schedule for implementing the plan;

ii. notify all persons who own the land or reside on the land that directly overlies any part of the plume of contamination if contaminants have migrated off site as indicated by the sampling of the wells in accordance with Clause D.7.a.i of this Section;

iii. upon consultation with and approval of the administrative authority, implement any interim measures necessary to ensure the protection of human health and the environment. Interim measures shall, to the greatest extent practicable, be in accordance with LAC 33:I.Chapter 13 and be consistent with the objectives of and contribute to the performance of any remedy that may be required in accordance with Subsection F of this Section. The following factors shall be considered by a permit holder in determining whether interim measures are necessary:

(a). the time required to develop and implement a final remedy;

(b). actual or potential exposure of nearby populations or environmental receptors to hazardous parameters or constituents;

(c). actual or potential contamination of drinking water supplies or sensitive ecosystems;

(d). further degradation of the groundwater that may occur if remedial action is not initiated expeditiously;

(e). weather conditions that may cause hazardous parameters or constituents to migrate or be released;

(f). risk of fire or explosion, or potential for exposure to hazardous parameters or constituents as a result of an accident or failure of a container or handling system; and

(g). other situations that may pose threats to human health and the environment;

iv. initiate an assessment of corrective measures as required by Subsection E of this Section.

b. If the facility being sampled did not cause the contamination, the permit holder may submit a report to the Office of Environmental Assessment, Environmental Technology Division, demonstrating that a source other than the facility being sampled caused the contamination, or the statistically significant increase resulted from error in sampling, analysis, statistical evaluation, or natural variation in groundwater quality. If the administrative authority approves this demonstration in writing, the permit holder shall continue assessment monitoring at the facility in accordance with this Subsection or may return to detection monitoring if the assessment monitoring parameters or constituents are below background as specified in Paragraph D.5 of this Section. Until such a written approval is given, the permit holder shall comply with Subparagraph D.7.a of this Section, including initiating an assessment of corrective action measures.

8. The permit holder shall establish a groundwater protection standard for each assessment monitoring parameter or constituent detected in the groundwater. The groundwater protection standard shall be in accordance with LAC 33:I.Chapter 13.

E. Assessment of Corrective Measures at Type I and Type II Facilities

1. Within 90 days of finding that any of the assessment monitoring parameters or constituents listed in Table 2 of LAC 33:VII.3005.Appendix C have been detected at a statistically significant level exceeding the groundwater protection standards defined in Paragraph D.8 of this Section, the permit holder shall initiate an assessment of corrective measures.

2. The permit holder shall continue to monitor in accordance with the assessment monitoring program throughout the period of corrective action, as specified in Subsection D of this Section.

3. The assessment shall include an analysis of the effectiveness of potential corrective measures in meeting all of the requirements and objectives of the remedy as described in Subsection F of this Section, addressing at least the following:

a. performance, reliability, ease of implementation, and potential impacts of appropriate potential remedies, including safety impacts, cross-media impacts, and control of exposure to any residual contamination;

b. the time required to begin and complete the remedy;

c. the costs of remedy implementation; and

d. institutional requirements such as state or local permit requirements or other environmental or public health requirements that may substantially affect implementation of the remedy.

4. For Type II landfills and associated surface impoundments, the results of the corrective measures assessment shall be discussed by the permit holder, in a

public meeting prior to the selection of remedy, with interested and affected parties.

F. Selection of Remedy and Corrective Action Plan at Type II Landfills and Associated Surface Impoundments

1. Based on the results of the corrective measures assessment required in Subsection E of this Section, the permit holder shall select a remedy that, at a minimum, meets the standards of Paragraph F.2 of this Section. Within 180 days after initiation of the corrective measures assessment required in Subsection E of this Section, the permit holder shall submit four bound copies (8 1/2 by 11 inches) of a corrective action plan to the Office of Environmental Assessment, Environmental Technology Division, describing the selected remedy, which will meet the requirements of Paragraphs F.2-4 of this Section and be in accordance with LAC 33:I.Chapter 13. The corrective action plan shall also provide for a corrective action groundwater monitoring program as described in Subparagraph G.1.a of this Section.

2. Remedies shall:

- a. be protective of human health and the environment;
- b. attain the groundwater protection standard as specified in accordance with Paragraph D.8 of this Section;
- c. control the source of releases so as to reduce or eliminate, to the maximum extent practicable, further releases of assessment monitoring parameters or constituents into the environment that may pose a threat to human health or the environment; and
- d. comply with standards for management of wastes as specified in Paragraph G.7 of this Section.

3. In selecting a remedy that meets the standards of Paragraph F.2 of this Section, the permit holder shall consider the following evaluation factors:

- a. long-term and short-term effectiveness and protectiveness of the potential remedy, along with the degree of certainty that the remedy will prove successful based on consideration of the following:
 - i. the magnitude of reduction of existing risks;
 - ii. the magnitude of residual risks in terms of likelihood of further releases due to waste remaining following implementation of a remedy;
 - iii. the type and degree of long-term management required, including monitoring, operation, and maintenance;
 - iv. short-term risks that might be posed to the community, workers, or the environment during implementation of such a remedy, including potential threats to human health and the environment associated with excavation, transportation, and redisposal of containment;
 - v. the time until full protection is achieved;
 - vi. the potential for exposure of humans and environmental receptors to remaining wastes, considering the potential threat to human health and the environment associated with excavation, transportation, redisposal, or containment;
 - vii. the long-term reliability of the engineering and institutional controls; and
 - viii. the potential need for replacement of the remedy;
- b. the effectiveness of the remedy in controlling the source to reduce further releases based on consideration of the following factors:

- i. the extent to which containment practices will reduce further releases; and
- ii. the extent to which treatment technologies may be used;
- c. the ease or difficulty of implementing a potential remedy based on consideration of the following types of factors:
 - i. the degree of difficulty associated with constructing the technology;
 - ii. the expected operational reliability of the technologies;
 - iii. the need to coordinate with and obtain necessary approvals and permits from other agencies;
 - iv. the availability of necessary equipment and specialists; and
 - v. the available capacity and location of needed treatment, storage, and disposal services;
- d. the practicable capability of the permit holder, including a consideration of the technical and economic capability; and
- e. the degree to which community concerns are addressed by a potential remedy.

4. The permit holder shall specify, as part of the selected remedy, a schedule for initiating and completing remedial activities. Such a schedule shall require the initiation of remedial activities within a reasonable period of time. The permit holder shall consider the following factors in determining the schedule of remedial activities:

- a. the extent and nature of the contamination;
- b. the practical capabilities of remedial technologies in achieving compliance with groundwater protection standards established in Paragraph D.8 of this Section and other objectives of the remedy;
- c. the availability of treatment or the disposal capacity for wastes managed during implementation of the remedy;
- d. the desirability of utilizing technologies that are not currently available, but which may offer significant advantages over already available technologies in terms of effectiveness, reliability, safety, or ability to achieve remedial objectives;
- e. potential risks to human health and the environment from exposure to contamination prior to completion of the remedy;
- f. the resource value of the aquifer, including:
 - i. current and future uses;
 - ii. proximity and withdrawal rate of users;
 - iii. groundwater quantity and quality;
 - iv. potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to parameters or constituents;
 - v. the hydrogeologic characteristic of the facility and surrounding land;
 - vi. groundwater removal and treatment costs;
 - vii. the cost and availability of alternative water supplies;
- viii. the practicable capability of the permit holder; and
- g. other relevant factors.

5. The administrative authority may determine that remediation of a release of an assessment monitoring parameter or constituent from a facility is not necessary if

the permit holder demonstrates to the satisfaction of the administrative authority that:

a. the groundwater is additionally contaminated by substances that have originated from a source other than a facility, and those substances are present in such concentrations that cleanup of the release from the facility would provide no significant reduction in risk to actual or potential receptors;

b. a parameter or constituent is present in groundwater that is:

i. not currently or reasonably expected to be a source of drinking water; and

ii. not hydraulically connected with waters to which the parameters or constituents are migrating or are likely to migrate in a concentration that would exceed the groundwater protection standards established in Paragraph D.8 of this Section;

c. remediation of the release is technically impracticable; or

d. remediation results in unacceptable cross-media impacts.

6. A determination by the administrative authority in accordance with Paragraph F.5 of this Section shall not affect the authority of the administrative authority to require the permit holder to undertake source control measures or other measures that may be necessary to eliminate or minimize further releases to the groundwater, to prevent exposure to the groundwater, or to remediate the groundwater to concentrations that are technically practicable and that significantly reduce threats to human health or the environment.

G. Implementation of the Corrective Action Programs at Type I and Type II Facilities

1. After the corrective action plan has been approved by the administrative authority and, based on the corrective action plan schedule established under Paragraph F.4 of this Section for initiation and completion of remedial activities, the permit holder shall:

a. implement a corrective action groundwater monitoring program as described in the approved corrective action plan that:

i. at a minimum, meets the requirements of an assessment monitoring program in Subsection D of this Section;

ii. indicates the effectiveness of the corrective action remedy; and

iii. demonstrates compliance with the groundwater protection standard in accordance with Paragraph D.8 of this Section; and

b. implement the corrective action plan established under Subsection F of this Section.

2. A permit holder may submit a report to the Office of Environmental Assessment, Environmental Technology Division, demonstrating, based on information developed after implementation of the corrective action plan has begun or other information, that compliance with requirements of Paragraph F.2 of this Section are not being achieved through the remedy selected. A revised corrective action plan providing other methods or techniques that could practically achieve compliance with the requirements of Paragraph F.2 of this Section shall accompany the demonstration.

3. If the administrative authority approves, in writing, the demonstration and revised corrective action plan submitted in accordance with Paragraph G.2 of this Section, the permit holder shall implement the revised corrective action plan.

4. The permit holder may submit a report to the Office of Environmental Assessment, Environmental Technology Division, demonstrating that compliance with the requirements of Paragraph F.2 of this Section cannot be achieved with any currently available methods.

5. If the administrative authority approves, in writing, the demonstration submitted in accordance with Paragraph G.4 of this Section, the permit holder shall, within 30 days of the approval, submit a plan to the Office of Environmental Assessment, Environmental Technology Division, (which includes an implementation schedule) to implement alternate measures in accordance with LAC 33:1.Chapter 13:

a. to control exposure of humans and the environment to residual contamination as necessary to protect human health and the environment; and

b. for the control of the sources of contamination, or for the removal or decontamination of equipment, devices, or structures, that are technically practicable and consistent with the overall objective of the remedy.

6. If the administrative authority approves the plan for alternate measures submitted in accordance with Paragraph G.5 of this Section, the permit holder shall implement the plan.

7. All solid wastes that are managed in accordance with a remedy required in Subsection F of this Section, or an interim measure required in Clause D.7.a.iii of this Section, shall be managed in a manner:

a. that is protective of human health and the environment; and

b. that complies with applicable RCRA requirements.

8. Remedies selected in accordance with Subsection F of this Section shall be considered complete when:

a. the permit holder complies with the groundwater protection standards established in Paragraph D.8 of this Section at all points within the plume of contamination that lie beyond the groundwater monitoring well system established in Subsection A of this Section; and

b. compliance with the groundwater protection standards established in Paragraph D.8 of this Section has been achieved by demonstrating that concentrations of assessment monitoring parameters or constituents have not exceeded the groundwater protection standard for a period of three consecutive years using the statistical procedures and performance standards in Paragraph B.6 of this Section. The administrative authority may specify an alternative length of time during which the permit holder shall demonstrate that concentrations of the assessment monitoring parameters or constituents have not exceeded the groundwater protection standard, taking into consideration:

i. the extent and concentration of the release;

ii. behavior characteristics of the hazardous parameters or constituents in the groundwater;

iii. accuracy of monitoring or modeling techniques, including any seasonal, meteorological, or other environmental variabilities that may affect the accuracy; and

iv. the characteristics of the groundwater; and
c. all actions required to complete the remedy have been satisfied.

9. Upon completion of the remedy, the permit holder shall submit to the administrative authority, within 14 days, a certification that the remedy has been completed in compliance with the requirements of Paragraph G.8 of this Section. The certification shall be signed by the permit holder and approved by the administrative authority.

10. When, upon completion of the certification, the administrative authority determines that the corrective action remedy has been completed in accordance with the requirements of Paragraph G.8 of this Section, the permit holder shall be released from the requirements for financial assurance for corrective action in LAC 33:VII.1305.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1077 (June 2007).

Chapter 9. Enforcement

§901. Failure to Comply

A. Failure of any person to comply with any of the provisions of these regulations or of the terms and conditions of any permit granted or order issued hereunder constitutes a violation of the Act.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), repromulgated by the Office of the Secretary, Legal Affairs Division, LR 33:1085 (June 2007).

§903. Investigations: Purposes, Notice

A. Investigations shall be undertaken to determine whether a violation has occurred or is about to occur, the scope and nature of the violation, and the persons or parties involved. The results of an investigation shall be given to any complainant who provided the information prompting the investigation, upon written request and, if advisable, to the person under investigation, if the identity of such person is known.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), repromulgated by the Office of the Secretary, Legal Affairs Division, LR 33:1085 (June 2007).

§905. Development of Facts, Reports

A. The administrative authority may conduct inquiries and develop facts in investigations by staff investigatory procedures or formal investigations and may conduct inspections and examinations of facilities and records. The administrative authority or his presiding officer may hold public hearings and/or issue subpoenas pursuant to R.S. 30:2025(I) and require attendance of witnesses and production of documents, or may take such other action as may be necessary and authorized by the Act or rules promulgated by the administrative authority. At the conclusion of the investigation, all facts and information concerning any alleged violation that have been developed shall be compiled by the staff of the department. A report of the investigation shall be presented to the administrative

authority for use in possible enforcement proceedings. Any complainant who provided the information prompting the investigation shall be notified of its results.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), repromulgated by the Office of the Secretary, Legal Affairs Division, LR 33:1085 (June 2007).

§907. Enforcement Action

A. When the administrative authority determines that a violation of the Act or these regulations or the terms and conditions of any permit issued hereunder has occurred or is about to occur, he shall initiate one or more of the actions set forth in R.S. 30:2025, or as otherwise provided by appropriate rules.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), repromulgated by the Office of the Secretary, Legal Affairs Division, LR 33:1085 (June 2007).

§909. Closing Unauthorized and Promiscuous Dumps

A. The administrative authority shall require closure of unauthorized dumps either by removal of the waste to an approved solid waste facility or by completing on-site closure requirements. The method of closure must be approved by the administrative authority prior to closure.

B. After an unauthorized dump is discovered, the administrative authority may issue an enforcement action with a closure directive to the owner/operator. Directives issued for unauthorized dumps shall require closure of the unauthorized dump in accordance with the procedures in this Section.

C. Requirements for on-site closure are as follows.

1. If required, or authorized and approved, by the administrative authority, closure shall be conducted in accordance with LAC 33:I.Chapter 13. However, the requirements of Subparagraph C.2.g of this Section shall apply. If closure in accordance with LAC 33:I.Chapter 13 results in constituent-of-concern levels remaining above those allowed for residential scenarios, the requirements of Subparagraph C.2.f of this Section shall also apply.

2. If closure will not be conducted in accordance with Paragraph C.1 of this Section, then approval or authorization may be granted by the administrative authority for the following alternative closure requirements:

- a. extinguish all fires;
- b. dewater and either solidify waste for return to the landfill or discharge it as governed by a NPDES/LPDES permit, if applicable;
- c. implement a disease vector extermination program, if applicable;
- d. compact the waste with suitable equipment;
- e. provide a final cover consisting of a minimum of 24 inches of silty clays and 6 inches of topsoil cover for supporting vegetative growth, and revegetate the area to control erosion if necessary;
- f. record in the parish mortgage and conveyance records a document describing the specific location of the facility and specifying that the property was used for the disposal of solid waste. The document shall identify the

name of the person with knowledge of the contents of the facility, as well as providing the chemical levels remaining, if present. A true copy of the document, filed and certified by the parish clerk of court, shall be sent to the Office of Environmental Compliance, Enforcement Division; and

g. conduct long-term monitoring in accordance with Subsection E of this Section, if deemed necessary by the administrative authority.

D. Inspection and Reports. The administrative authority reserves the right to inspect the facility to determine if the requirements for closure have been met.

E. Long-Term Monitoring Responsibilities. The administrative authority may require the following or other long-term monitoring responsibilities of the person legally responsible for the unauthorized dump if deemed necessary.

1. Installation of groundwater monitoring wells in accordance with LAC 33:VII.709.E may be required, along with semiannual reporting for a period of 10 years of monitoring of the facility after closure, or longer if deemed necessary, on a facility-specific basis.

2. Annual reports may be required for a period of three years, or longer if deemed necessary, on the condition of the final cover and the use of the property.

F. An owner who voluntarily requests closure of a promiscuous dump shall close it either by removal of the waste to an approved solid waste facility or by completing on-site closure requirements in accordance with Subsection C of this Section. The method of closure must be approved by the administrative authority prior to closure. The department reserves the right to apply the provisions of Subsections C, D, and E of this Section to close promiscuous dumps.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and specifically 2025, 2039, and 2155.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, LR 24:2252 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2536 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2501 (October 2005), LR 33:1085 (June 2007).

Chapter 11. Solid Waste Beneficial Use and Soil Reuse §1101. Applicability

A. Solid waste beneficial use and soil reuse options apply to all solid waste generators. Solid waste beneficial use is available to solid waste streams that are typically disposed of in a solid waste disposal facility and that meet certain requirements as described in this Chapter.

B. Sewage sludge (including domestic septage) shall be generated, treated, processed, composted, blended, mixed, prepared, transported, used, or disposed of in accordance with LAC 33:IX.Chapter 69.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1086 (June 2007).

§1103. On-Site Soil Reuse Requirements

A. Soil that is to be reused on-site is exempt from these regulations provided the level of contaminants in the soil is at or below the pertinent RECAP standards developed by the

department in accordance with LAC 33:I.Chapter 13, as applicable to surface soil meeting the *non-industrial* standards in the RECAP document. This Section is limited to *in situ* contaminated soil and does not include sludges and sediments from regulated solid waste units. Any person claiming this exemption shall have records clearly documenting the particular soils reused on-site pursuant to the exemption, including, for example, soil source, soil quantities, and site locations where the soil was reused.

B. Soil that is not exempt under Subsection A of this Section and that is to be reused on-site at an *industrial/commercial* property, as that term is defined in the RECAP document, is exempt from these regulations, provided that:

1. the level of contaminants in the soil is at or below the pertinent RECAP standards developed by the department in accordance with LAC 33:I.Chapter 13, as applicable to surface soil located in an area meeting the *industrial* standards (MO-1 or MO-2) in the RECAP document;

2. the owner or operator of the property notifies the Office of Environmental Services, Waste Permits Division, in writing, of his intent to reuse soil on-site, and attaches the following to the notification:

- a. a characterization of the soil in question;
- b. a description of the property in question;
- c. a description of the proposed uses of the soil on-site (e.g., levee construction, road bed construction, construction fill, daily cover in a regulated facility, etc.); and
- d. an on-site soil reuse plan regarding the reuse of the soil in question, which shall address at least the following:

i. procedures for storage of the soil pending reuse;

ii. procedures for handling, transportation, and application of the soil on-site;

iii. procedures for recordkeeping; and

iv. any other procedures required for the protection of human health and the environment (e.g., security, restricted site access, institutional controls, control of storm water runoff, etc.); and

3. the administrative authority notifies the owner/operator of the facility upon the approval of the on-site soil reuse plan.

C. Soil that is not addressed in Subsection A or B of this Section and that is to be reused on-site shall be addressed in accordance with LAC 33:VII.303.A.11, or LAC 33:VII.Chapter 11, or as otherwise deemed appropriate by the administrative authority.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1086 (June 2007).

§1105. Beneficial Use of Other Solid Waste

A. An application for beneficial use of solid waste streams shall provide the following information:

1. the name, address, and telephone number of the applicant;

2. the name, address, and telephone number of the applicant's primary contact for departmental correspondence

and inquiries, and of the applicant's attorney or other representative, if applicable;

3. the address or site of origin of the solid waste proposed for beneficial use;

4. the chemical and physical characteristics of the material to be beneficially used;

5. statements of the quantity, quality, consistency, and source of the solid waste;

6. a description of the process by which the solid waste is generated, and a demonstration that the generator has minimized the quantity and toxicity of the solid waste proposed for beneficial use to the extent reasonably practicable. The applicant shall provide a detailed narrative and schematic diagram of the production, manufacturing, and/or residue process by which the solid waste that will be beneficially used is generated;

7. a detailed description of the processing activity, if applicable, that will be used to make the solid waste suitable for beneficial use;

8. a demonstration that there is a known or reasonably probable market for the intended use of the beneficial use material, such as a contract to purchase or utilize the material, a description of how the material will be used, and a demonstration that the material complies with industry standards for a product, or other documentation that a market exists;

9. a description of the proposed methods of handling, storing, and utilizing the beneficial use material to ensure that it will not adversely affect the public health or safety, or the environment. This description shall consist of:

a. a statement of procedures to be employed for periodic testing for quality control purposes;

b. a statement of intended storage procedures that will be used, including:

i. run-on/run-off control;

ii. the maximum anticipated inventory;

iii. measures to ensure that no contamination of underlying soil or groundwater occurs;

iv. measures for dispersion control due to wind; and

c. recordkeeping procedures;

10. an acknowledgement that at least 75 percent of the material placed in storage during a year will be sent to market or to other secure storage within the following year, unless the operator demonstrates that a particular order requires greater than one year of product storage prior to shipment;

11. a demonstration that the end use of the material is protective of public health, safety, and the environment;

12. a discussion of the end users of the material and the locations of the end-use; and

13. any other information the secretary may require or the applicant believes will demonstrate that the proposed beneficial use of the material will conserve, improve, and/or protect human health, natural resources, and the environment.

B. The application shall be signed by the applicant and the individual or individuals responsible for actually preparing the information and supporting data submitted with the application, each of whom shall certify in writing as follows:

"I have personally examined and am familiar with the information submitted in this document and all attachments

thereto, and I certify that, based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, the submitted information is true, accurate, and complete to the best of my knowledge and belief.

"I understand that a false statement made in the submitted information may be punishable as a criminal offense, in accordance with La. R.S. 30:2025(F) and in accordance with any other applicable statute."

C. Upon approval the material shall be handled, processed, stored, or otherwise managed in accordance with the proposed plan outlined in the application.

D. Respondents in actions to enforce regulations who raise a claim that the transportation, storage, handling, processing, and/or use of certain material has been approved by the administrative authority pursuant to this Section must demonstrate that there is a known or reasonably probable market or disposition for the material and that the terms of this Section and any department approval are met. In doing so, respondents must provide appropriate documentation (such as contracts showing that a second person uses the material as an ingredient in a production process) to demonstrate that the material is not discarded, but is, instead, subject to beneficial use. In addition, owners or operators of facilities claiming that they actually are preparing materials for beneficial use pursuant to this Section must be able to show that they have the necessary equipment to do so. The administrative authority may revoke or rescind any prior approval provided by the department pursuant to this Section upon failure of a respondent to provide adequate proof in accordance with this Subsection.

E. The Louisiana Pulp and Paper Association and the department established an agreement in May 1997 regarding the applicability of the solid waste regulations (LAC 33:Part VII) to a variety of materials produced by the pulp and paper industry. This agreement, found in LAC 33:VII.3017.Appendix I, may be utilized by the pulp and paper industry in lieu of submitting a beneficial use plan.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2536 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1086 (June 2007).

§1107. Part II Supplementary Information Required for Beneficial-Use Facilities

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), repealed by the Office of the Secretary, Legal Affairs Division, LR 33:1087 (June 2007).

§1109. Standards Governing Beneficial-Use Facilities

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2536 (November 2000), repromulgated LR 27:40 (January 2001), LR 27:705 (May 2001), amended by the Office of

Environmental Assessment, LR 30:2027 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2501 (October 2005), repealed LR 33:1087 (June 2007).

Chapter 13. Financial Assurance for All Processors and Disposers of Solid Waste
[Formerly Chapter 7.Subchapter E]

NOTE: Former Chapter 13 has moved to Chapter 14.

§1301. Financial Responsibility During Operation
[Formerly §727.A.1]

NOTE: Former §1301 has moved to §1401.

A. Financial Responsibility for Type I, I-A, II, II-A, and III Facilities. Permit holders or applicants for standard permits of Type I, I-A, II, II-A, and III facilities have the following financial responsibilities while the facility is in operation.

1. Type I and II facilities shall maintain liability insurance, or its equivalent, for sudden and accidental occurrences in the amount of \$1 million per occurrence and \$1 million annual aggregate, per site, exclusive of legal-defense costs, for claims arising from injury to persons or property, owing to the operation of the site. Evidence of this coverage shall be updated annually and provided to the Office of Environmental Services, Waste Permits Division.

2. Type I-A and II-A facilities shall maintain liability insurance, or its equivalent, for sudden and accidental occurrences in the amount of \$500,000 per occurrence, and \$500,000 annual aggregate, per site, exclusive of legal-defense costs, for claims arising from injury to persons or property, owing to the operation of the site. Evidence of this coverage shall be updated annually and provided to the Office of Environmental Services, Waste Permits Division.

3. Type III facilities shall maintain liability insurance, or its equivalent, for sudden and accidental occurrences in the amount of \$250,000 per occurrence, and \$250,000 annual aggregate, per site, exclusive of legal-defense costs, for claims arising from injury to persons or property, owing to the operation of the site. Evidence of this coverage shall be updated annually and provided to the Office of Environmental Services, Waste Permits Division.

B. Establishment of Financial Responsibility. The financial responsibility during operation may be established by any one or a combination of the following: an insurance policy, a letter of credit, or the financial test and/or corporate guarantee.

1. Insurance. Evidence of liability insurance shall consist of either a signed duplicate original of a solid waste liability endorsement or a certificate of insurance.

a. All liability endorsements and certificates of insurance must include:

i. a statement of coverage relative to environmental risks;

ii. a statement of all exclusions to the policy; and

iii. a certification by the insurer that the insurance afforded with respect to such sudden accidental occurrences is subject to all of the terms and conditions of the policy, provided, however, that any provisions of the policy inconsistent with the following Subclauses are amended to conform with said Subclauses:

(a). bankruptcy or insolvency of the insured shall not relieve the insurer of its obligations under the policy;

(b). the insurer is liable for the payment of amounts within any deductible applicable to the policy, with a right of reimbursement by the insured for any such

payment made by the insurer. This provision does not apply with respect to that amount of any deductible for which coverage is demonstrated as specified in Paragraph B.2, 3, or 4 of this Section;

(c). whenever requested by the administrative authority, the insurer agrees to furnish to the administrative authority a signed duplicate original of the policy and all endorsements;

(d). cancellation of the policy, whether by the insurer or the insured, shall be effective only upon written notice and upon lapse of 60 days after a copy of such written notice is received by the Office of Environmental Services, Waste Permits Division;

(e). any other termination of the policy shall be effective only upon written notice and upon lapse of 30 days after a copy of such written notice is received by the Office of Environmental Services, Waste Permits Division; and

(f). the insurer is admitted, authorized, or eligible to conduct insurance business in Louisiana.

b. Liability Endorsement. The wording of the liability endorsement shall be identical to the wording in LAC 33:VII.1399.Appendix A, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

c. Certificate of Liability Insurance. The wording of the certificate of insurance shall be identical to the wording in LAC 33:VII.1399.Appendix B, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

2. Letter of Credit. A permit holder or applicant may satisfy the requirements of this Section by obtaining an irrevocable standby letter of credit that conforms to the following requirements, and by submitting the letter to the administrative authority.

a. The issuing institution must be an entity that has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a federal or state agency.

b. A permit holder or applicant who uses a letter of credit to satisfy the requirements of this Section must also provide to the administrative authority evidence of the establishment of a standby trust fund. Under the terms of the letter of credit, all amounts paid pursuant to a draft by the administrative authority will be deposited by the issuing institution directly into the standby trust fund. The wording of the standby trust fund agreement shall be as specified in LAC 33:VII.1399.Appendix D; the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

c. The letter of credit shall be accompanied by a letter from the permit holder or applicant referring to the letter of credit by number, name of issuing institution, and date, and providing the following information:

i. agency interest number;

ii. solid waste identification number;

iii. site name;

iv. facility name;

v. facility permit number; and

vi. the amount of funds assured for liability coverage of the facility by the letter of credit.

d. The letter of credit must be irrevocable and issued for a period of at least one year unless, at least 120

days before the current expiration date, the issuing institution notifies both the permit holder and the administrative authority by certified mail of a decision not to extend the expiration date. Under the terms of the letter of credit, the 120 days shall begin on the date when both the permit holder and the Office of Environmental Services, Waste Permits Division, receive the notice, as evidenced by the return receipts.

e. The wording of the letter of credit shall be identical to the wording in LAC 33:VII.1399.Appendix C, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

3. Financial Test

a. To meet this test, the applicant, the permit holder, or the parent corporation (corporate guarantor) of the applicant or permit holder must submit to the Office of Environmental Services, Waste Permits Division, the documents required by LAC 33:VII.1303 demonstrating that the requirements of that Section have been met. Use of the financial test may be disallowed on the basis of the accessibility of the assets of the permit holder, applicant, or parent corporation (corporate guarantor). If the applicant, permit holder, or parent corporation is using the financial test to demonstrate liability coverage and closure and post-closure care, only one letter from the chief financial officer is required.

b. The assets of the parent corporation of the applicant or permit holder shall not be used to determine whether the applicant or permit holder satisfies the financial test, unless the parent corporation has supplied a corporate guarantee as authorized in Paragraph B.4 of this Section.

c. The wording of the financial test shall be as specified in LAC 33:VII.1399.Appendix I; the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

4. Corporate Guarantee. A permit holder or applicant may meet the requirements of this Section for liability coverage by obtaining a written guarantee, hereafter referred to as a "corporate guarantee."

a. The guarantor must demonstrate to the administrative authority that the guarantor meets the requirements in LAC 33:VII.1303.H and must comply with the terms of the corporate guarantee. The corporate guarantee must accompany the items sent to the administrative authority specified in LAC 33:VII.1303.H.2 and 4. The terms of the corporate guarantee must be in an authentic act signed and sworn to by an authorized officer of the corporation before a notary public and must provide that:

i. the guarantor meets or exceeds the financial test criteria and agrees to comply with the reporting requirements for guarantors as specified in LAC 33:VII.1303.H;

ii. the guarantor is the parent corporation of the permit holder or applicant of the solid waste facility or facilities to be covered by the guarantee, and the guarantee extends to certain facilities;

iii. if the permit holder or applicant fails to satisfy a judgment based on a determination of liability for bodily injury or property damage to third parties caused by sudden and accidental occurrences (or both as the case may be), arising from the operation of facilities covered by the corporate guarantee, or fails to pay an amount agreed to in

settlement of the claims arising from or alleged to arise from such injury or damage, the guarantor will do so up to the limits of coverage;

iv. the guarantor agrees that if, at the end of any fiscal year before termination of the guarantee, the guarantor fails to meet the financial test criteria, the guarantor shall send within 90 days, by certified mail, notice to the Office of Environmental Services, Waste Permits Division, and to the permit holder or applicant, that he intends to provide alternative financial assurance as specified in this Section, in the name of the permit holder or applicant, and that within 120 days after the end of said fiscal year the guarantor shall establish such financial assurance, unless the permit holder or applicant has done so;

v. the guarantor agrees to notify the Office of Environmental Services, Waste Permits Division, by certified mail of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming the guarantor as debtor, within 10 days after commencement of the proceeding;

vi. the guarantor agrees that within 30 days after being notified by the administrative authority of a determination that the guarantor no longer meets the financial test criteria or that he or she is disallowed from continuing as a guarantor of closure or post-closure care, he or she shall establish alternate financial assurance as specified in this Section in the name of the permit holder or applicant unless the permit holder or applicant has done so;

vii. the guarantor agrees to remain bound under the guarantee notwithstanding any or all of the following: amendment or modification of the permit, or any other modification or alteration of an obligation of the permit holder or applicant in accordance with these regulations;

viii. the guarantor agrees to remain bound under the guarantee for as long as the permit holder or applicant must comply with the applicable financial assurance requirements of LAC 33:VII.1303, except that the guarantor may cancel this guarantee by sending notice by certified mail to the administrative authority and the permit holder or applicant. Such cancellation will become effective no earlier than 90 days after receipt of such notice by both the administrative authority and the permit holder, as evidenced by the return receipts;

ix. the guarantor agrees that if the permit holder or applicant fails to provide alternate financial assurance, as specified in this Section, and obtain written approval of such assurance from the administrative authority within 60 days after the administrative authority receives the guarantor's notice of cancellation, the guarantor shall provide such alternate financial assurance in the name of the permit holder or applicant; and

x. the guarantor expressly waives notice of acceptance of the guarantee by the administrative authority or by the permit holder or applicant; the guarantor also expressly waives notice of amendments or modifications of the facility permit.

b. A corporate guarantee may be used to satisfy the requirements of this Section only if the attorney general(s) or insurance commissioner(s) of the state in which the guarantor is incorporated, and the state in which the facility covered by the guarantee is located, has submitted a written statement to the Office of Environmental Services, Waste

Permits Division, that a corporate guarantee is a legally valid and enforceable obligation in that state.

c. The wording of the corporate guarantee shall be as specified in LAC 33:VII.1399.Appendix J; the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

C. The use of a particular financial responsibility mechanism is subject to the approval of the administrative authority.

D. Permit holders of existing facilities must submit, on or before February 20, 1995, financial responsibility documentation that complies with the requirements of this Section. Applicants for permits for new facilities must submit evidence of financial assurance in accordance with this Chapter at least 60 days before the date on which solid waste is first received for processing or disposal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2521 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1088 (June 2007).

§1303. Financial Responsibility for Closure and Post-Closure Care

[Formerly §727.A.2]

NOTE: Former §1303 has moved to §1403.

A. Financial Responsibility for Type I, I-A, II, II-A, and III Facilities. Permit holders or applicants of Type I, I-A, II, II-A, and III facilities have the following financial responsibilities for closure and post-closure care.

1. Permit holders or applicants for processing or disposal facilities shall establish and maintain financial assurance for closure and post-closure care.

2. The applicant or permit holder shall submit to the Office of Environmental Services, Waste Permits Division, the estimated closure date and the estimated cost of closure and post-closure care in accordance with the following procedures.

a. The applicant or permit holder must have a written estimate, in current dollars, of the cost of closing the facility in accordance with the requirements in these regulations. The estimate must equal the cost of closure at the point in the facility's operating life when the extent and manner of its operation would make closure the most expensive, as indicated by the closure plan, and shall be based on the cost of hiring a third party to close the facility in accordance with the closure plan.

b. The applicant or permit holder of a facility subject to post-closure monitoring or maintenance requirements must have a written estimate, in current dollars, of the annual cost of post-closure monitoring and maintenance of the facility in accordance with the provisions of these regulations. The estimate of post-closure costs is calculated by multiplying the annual post-closure cost estimate by the number of years of post-closure care required and shall be based on the cost of hiring a third party to conduct post-closure activities in accordance with the closure plan.

c. The cost estimates must be adjusted within 30 days after each anniversary of the date on which the first cost estimate was prepared on the basis of either the inflation factor derived from the Annual Implicit Price Deflator for Gross Domestic Product, as published by the U.S. Department of Commerce in its *Survey of Current Business*

or a reestimation of the closure and post-closure costs in accordance with Subparagraphs A.2.a and b of this Section. The permit holder or applicant must revise the cost estimate whenever a change in the closure/post-closure plans increases or decreases the cost of the closure/post-closure plans. The permit holder or applicant must submit a written notice of any such adjustment to the Office of Environmental Services, Waste Permits Division, within 15 days following such adjustment.

d. For trust funds, the first payment must be at least equal to the current closure and post-closure cost estimate, divided by the number of years in the pay-in period. Subsequent payments must be made no later than 30 days after each annual anniversary of the date of the first payment. The amount of each subsequent payment must be determined by subtracting the current value of the trust fund from the current closure and post-closure cost estimates and dividing the result by the number of years remaining in the pay-in period. The initial pay-in period is based on the estimated life of the facility.

B. Financial Assurance Mechanisms. The financial assurance mechanism must be one or a combination of the following: a trust fund, a surety bond, a performance bond, a letter of credit, an insurance policy, or a financial test and/or corporate guarantee. The financial assurance mechanism is subject to the approval of the administrative authority and must fulfill the following criteria.

1. Except when a financial test, trust fund, or certificate of insurance is used as the financial assurance mechanism, a standby trust fund naming the administrative authority as beneficiary must be established at the time of the creation of the financial assurance mechanism, into which the proceeds of such mechanism could be transferred should such funds be necessary for either closure or post-closure of the facility, and a signed copy must be furnished to the administrative authority with the mechanism.

2. A permit holder or applicant may use a financial assurance mechanism specified in this Section for more than one facility, if all such facilities are located within Louisiana and are specifically identified in the mechanism.

3. The amount covered by the financial assurance mechanism must equal the total of the current closure and post-closure estimates for each facility covered.

4. When all closure and post-closure requirements have been satisfactorily completed, the administrative authority shall execute an approval to terminate the financial assurance mechanism.

C. Trust Funds. A permit holder or applicant may satisfy the requirements of this Section by establishing a closure trust fund that conforms to the following requirements and submitting an originally signed duplicate of the trust agreement to the Office of Environmental Services, Waste Permits Division.

1. The trustee must be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency.

2. Trusts must be accomplished in accordance with and subject to the laws of Louisiana. The beneficiary of the trust shall be the administrative authority.

3. Trust-fund earnings may be used to offset required payments into the fund, to pay the fund trustee, or to pay other expenses of the funds, or may be reclaimed by the

permit holder or applicant upon approval of the administrative authority.

4. The trust agreement must be accompanied by an affidavit certifying the authority of the individual signing the trust on behalf of the permit holder or applicant.

5. The permit holder or applicant may accelerate payments into the trust fund or deposit the full amount of the current closure cost estimate at the time the fund is established. The permit holder or applicant must, however, maintain the value of the fund at no less than the value that the fund would have if annual payments were made as specified in Subparagraph A.2.d of this Section.

6. If the permit holder or applicant establishes a trust fund after having used one or more of the alternate mechanisms specified in this Section, his first payment must be in at least the amount that the fund would contain if the trust fund were established initially and annual payments made according to the specifications of this Subsection.

7. After the pay-in period is completed, whenever the current cost estimate changes, the permit holder must compare the new estimate with the trustee's most recent annual valuation of the trust fund. If the value of the fund is less than the amount of the new estimate, the permit holder or applicant, within 60 days after the change in the cost estimate, must either deposit an amount into the fund that will make its value at least equal to the amount of the closure/post-closure cost estimate or it must estimate or obtain other financial assurance as specified in this Chapter to cover the difference.

8. After beginning final closure, a permit holder, or any other person authorized by the permit holder to perform closure and/or post-closure, may request reimbursement for closure and/or post-closure expenditures by submitting itemized bills to the Office of Environmental Services, Waste Permits Division. Within 60 days after receiving bills for such activities, the administrative authority will determine whether the closure and/or post-closure expenditures are in accordance with the closure plan or otherwise justified, and, if so, he or she shall instruct the trustee to make reimbursement in such amounts as the administrative authority specifies in writing. If the administrative authority has reason to believe that the cost of closure and/or post-closure will be significantly greater than the value of the trust fund, he may withhold reimbursement for such amounts as he deems prudent until he determines that the permit holder is no longer required to maintain financial assurance.

9. The wording of the trust agreement shall be identical to the wording in LAC 33:VII.1399.Appendix D, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted. The trust agreement shall be accompanied by a formal certification of acknowledgement.

D. Surety Bonds. A permit holder or applicant may satisfy the requirements of this Section by obtaining a surety bond that conforms to the following requirements and submitting the bond to the Office of Environmental Services, Waste Permits Division.

1. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of the Treasury and approved by the administrative authority.

2. The permit holder or applicant who uses a surety bond to satisfy the requirements of this Section must also provide to the administrative authority evidence of the establishment of a standby trust fund. Under the terms of the bond, all payments made thereunder will be deposited by the surety directly into the standby trust fund in accordance with instructions from the administrative authority. The wording of the standby trust fund shall be as specified in LAC 33:VII.1399.Appendix D; the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

3. The bond must guarantee that the operator will:

a. fund the standby trust fund in an amount equal to the penal sum of the bond before the beginning of final closure of the facility; or

b. fund the standby trust fund in an amount equal to the penal sum within 15 days after an order to begin closure or post-closure is issued; or

c. provide alternate financial assurance as specified in this Section, and obtain the administrative authority's written approval of the assurance provided, within 90 days after receipt by both the permit holder and the administrative authority of a notice of cancellation of the bond from the surety.

4. Under the terms of the bond, the surety will become liable on the bond obligation when the permit holder fails to perform as guaranteed by the bond.

5. The penal sum of the bond must be at least equal to the current closure and post-closure cost estimates.

6. Whenever the current cost estimate increases to an amount greater than the penal sum, the permit holder, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current closure and post-closure estimate and submit evidence of such increase to the Office of Environmental Services, Waste Permits Division, or obtain other financial assurance as specified in this Section to cover the increase. Whenever the current cost estimate decreases, the penal sum may be reduced to the amount of the current cost estimate following written approval by the administrative authority.

7. Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the permit holder and to the administrative authority. Cancellation may not occur, however, before 120 days have elapsed, beginning on the date that both the permit holder and the administrative authority receive the notice of cancellation, as evidenced by the return receipts.

8. The wording of the surety bond guaranteeing payment into a standby trust fund shall be identical to the wording in LAC 33:VII.1399.Appendix E, except that the instructions in brackets are to be replaced with the relevant information and the brackets delete.

E. Performance Bonds. A permit holder or applicant may satisfy the requirements of this Section by obtaining a surety bond that conforms to the following requirements and submitting the bond to the Office of Environmental Services, Waste Permits Division.

1. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of the Treasury and approved by the administrative authority.

2. The permit holder or applicant who uses a surety bond to satisfy the requirements of this Section must also provide to the administrative authority evidence of establishment of a standby trust fund. Under the terms of the bond, all payments made thereunder will be deposited by the surety directly into the standby trust fund in accordance with instructions from the administrative authority. The wording of the standby trust fund shall be as specified in LAC 33:VII.1399.Appendix D; the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

3. The bond must guarantee that the permit holder or applicant will:

a. perform final closure and post-closure in accordance with the closure plan and other requirements of the permit for the facility whenever required to do so; or

b. provide alternate financial assurance as specified in this Section and obtain the administrative authority's written approval of the assurance provided within 90 days after the date both the permit holder and the administrative authority receive notice of cancellation of the bond from the surety.

4. Under the terms of the bond, the surety will become liable on the bond obligation when the permit holder fails to perform as guaranteed by the bond. Following a determination by the administrative authority that the permit holder has failed to perform final closure and post-closure in accordance with the closure plan and other permit requirements when required to do so, under the terms of the bond the surety will perform final closure and post-closure as guaranteed by the bond or will deposit the amount of the penal sum into the standby trust fund.

5. The penal sum of the bond must be at least equal to the current closure and post-closure cost estimates.

6. Whenever the current closure cost estimate increases to an amount greater than the penal sum, the permit holder, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current closure and post-closure cost estimates and submit evidence of such increase to the Office of Environmental Services, Waste Permits Division, or obtain other financial assurance as specified in this Section. Whenever the current cost estimate decreases, the penal sum may be reduced to the amount of the current cost estimate after written approval of the administrative authority.

7. Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the permit holder and to the Office of Environmental Services, Waste Permits Division. Cancellation may not occur before 120 days have elapsed beginning on the date that both the permit holder and the administrative authority receive the notice of cancellation, as evidenced by the return receipts.

8. The wording of the performance bond shall be identical to the wording in LAC 33:VII.1399.Appendix F, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

F. Letter of Credit. A permit holder or applicant may satisfy the requirements of this Section by obtaining an irrevocable standby letter of credit that conforms to the following requirements and submitting the letter to the Office of Environmental Services, Waste Permits Division.

1. The issuing institution must be an entity that has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a federal or state agency.

2. A permit holder or applicant who uses a letter of credit to satisfy the requirements of this Section must also provide to the administrative authority evidence of the establishment of a standby trust fund. Under the terms of the letter of credit, all amounts paid pursuant to a draft by the administrative authority will be deposited by the issuing institution directly into the standby trust fund. The wording of the standby trust fund shall be as specified in LAC 33:VII.1399.Appendix D; the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

3. The letter of credit must be accompanied by a letter from the permit holder or applicant referring to the letter of credit by number, issuing institution, and date, and providing the following information:

a. agency interest number;

b. solid waste identification number;

c. site name;

d. facility name;

e. facility permit number; and

f. the amount of funds assured for liability coverage of the facility by the letter of credit.

4. The letter of credit must be irrevocable and issued for a period of at least one year, unless, at least 120 days before the current expiration date, the issuing institution notifies both the permit holder and the Office of Environmental Services, Waste Permits Division, by certified mail of a decision not to extend the expiration date. Under the terms of the letter of credit, the 120 days will begin on the date when both the permit holder and the administrative authority receive the notice, as evidenced by the return receipts.

5. The letter of credit must be issued in an amount at least equal to the current closure and post-closure cost estimates.

6. Whenever the current cost estimates increase to an amount greater than the amount of the credit, the permit holder, within 60 days after the increase, must either cause the amount of the credit to be increased so that it at least equals the current closure and post-closure cost estimates and submit evidence of such increase to the Office of Environmental Services, Waste Permits Division, or obtain other financial assurance as specified in this Section to cover the increase. Whenever the current cost estimate decreases, the amount of the credit may be reduced to the amount of the current closure and post-closure cost estimates upon written approval of the administrative authority.

7. Following a determination by the administrative authority that the permit holder has failed to perform final closure or post-closure in accordance with the closure plan and other permit requirements when required to do so, the administrative authority may draw on the letter of credit.

8. The wording of the letter of credit shall be identical to the wording in LAC 33:VII.1399.Appendix G, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

G. Insurance. A permit holder or applicant may satisfy the requirements of this Section by obtaining insurance that

conforms to the following requirements and submitting a certificate of such insurance to the Office of Environmental Services, Waste Permits Division.

1. At a minimum, the insurer must be licensed to transact the business of insurance, or eligible to provide insurance as an excess-lines or surplus-lines insurer in one or more states, and authorized to transact insurance business in Louisiana.

2. The insurance policy must be issued for a face amount at least equal to the current closure and post-closure cost estimates.

3. The term *face amount* means the total amount the insurer is obligated to pay under the policy. Actual payments by the insurer will not change the face amount, although the insurer's future liability will be lowered by the amount of the payments.

4. The insurance policy must guarantee that funds will be available to close the facility and provide post-closure care once final closure occurs. The policy must also guarantee that, once final closure begins, the insurer will be responsible for paying out funds up to an amount equal to the face amount of the policy, upon the direction of the administrative authority, to such party or parties as the administrative authority specifies.

5. After beginning final closure, a permit holder or any other person authorized by the permit holder to perform closure or post-closure may request reimbursement for closure or post-closure expenditures by submitting itemized bills to the Office of Environmental Services, Waste Permits Division. Within 60 days after receiving such bills, the administrative authority will determine whether the expenditures are in accordance with the closure plan or otherwise justified, and if so, he or she shall instruct the insurer to make reimbursement in such amounts as the administrative authority specifies in writing.

6. The permit holder must maintain the policy in full force and effect until the administrative authority consents to termination of the policy by the permit holder.

7. Each policy must contain a provision allowing assignment of the policy to a successor permit holder. Such assignment may be conditional upon consent of the insurer, provided consent is not unreasonably refused.

8. The policy must provide that the insurer may not cancel, terminate, or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy must, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may elect to cancel, terminate, or fail to renew the policy by sending notice by certified mail to the permit holder and the Office of Environmental Services, Waste Permits Division. Cancellation, termination, or failure to renew may not occur, however, before 120 days have elapsed, beginning on the date that both the administrative authority and the permit holder receive notice of cancellation, as evidenced by the return receipts. Cancellation, termination, or failure to renew may not occur, and the policy will remain in full force and effect in the event that, on or before the date of expiration:

a. the administrative authority deems the facility to be abandoned;

b. the permit is terminated or revoked or a new permit is denied;

c. closure and/or post-closure is ordered;

d. the permit holder is named as debtor in a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code; or

e. the premium due is paid.

9. Whenever the current cost estimate increases to an amount greater than the face amount of the policy, the permit holder, within 60 days after the increase, must either increase the face amount to at least equal to the current closure and post-closure cost estimates and submit evidence of such increase to the Office of Environmental Services, Waste Permits Division, or obtain other financial assurance as specified in this Section to cover the increase. Whenever the current cost estimate decreases, the face amount may be reduced to the amount of the current closure and post-closure cost estimates following written approval by the administrative authority.

10. The wording of the certificate of insurance shall be identical to the wording in LAC 33:VII.1399.Appendix H, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

H. Financial Test. A permit holder, applicant, or parent corporation of the permit holder or applicant, which will be responsible for the financial obligations, may satisfy the requirements of this Section by demonstrating that he or she passes a financial test as specified in this Subsection. The assets of the parent corporation of the applicant or permit holder shall not be used to determine whether the applicant or permit holder satisfies the financial test, unless the parent corporation has supplied a corporate guarantee as outlined in LAC 33:VII.1301.B.4.

1. To pass this test, the permit holder, applicant, or parent corporation of the permit holder or applicant, must meet the criteria of either of the following provisions.

a. The permit holder, applicant, or parent corporation of the permit holder or applicant must have:

i. tangible net worth of at least six times the sum of the current closure and post-closure cost estimates to be demonstrated by this test, and the amount of liability coverage to be demonstrated by this test;

ii. tangible net worth of at least \$10 million; and

iii. assets in the United States amounting to either at least 90 percent of his or her total assets, or at least six times the sum of the current closure and post-closure cost estimates, to be demonstrated by this test, and the amount of liability coverage to be demonstrated by this test.

b. The permit holder, applicant, or parent corporation of the permit holder or applicant must have:

i. a current rating for his or her most recent bond issuance of AAA, AA, A, or BBB, as issued by *Standard and Poor's*, or Aaa, Aa, or Baa, as issued by *Moody's*;

ii. tangible net worth of at least \$10 million; and

iii. assets in the United States amounting to either 90 percent of his or her total assets or at least six times the sum of the current closure and post-closure cost estimates, to be demonstrated by this test, and the amount of liability coverage to be demonstrated by this test.

2. To demonstrate that he or she meets this test, the permit holder, applicant, or parent corporation of the permit holder or applicant must submit the following three items to the Office of Environmental Services, Waste Permits Division:

a. a letter signed by the chief financial officer of the permit holder, applicant, or parent corporation demonstrating and certifying satisfaction of the criteria in Paragraph H.1 of this Section and including the information required by Paragraph H.4 of this Section. If the financial test is provided to demonstrate both assurance for closure and/or post-closure care and liability coverage, a single letter to cover both forms of financial responsibility is required;

b. a copy of the independent certified public accountant's report on the financial statements of the permit holder, applicant, or parent corporation of the permit holder or applicant for the latest completed fiscal year; and

c. a special report from the independent CPA to the permit holder, applicant, or parent corporation of the permit holder or applicant. The special report shall contain the following certification.

"I have computed the data specified by the chief financial officer as having been derived from the independently audited, year-end financial statements with the amounts for the latest fiscal year in such financial statements, and in connection with that procedure, no matters came to my attention that caused me to believe that the specified data should be adjusted."

3. The administrative authority may disallow use of this test on the basis of the opinion expressed by the independent CPA in his report on qualifications based on the financial statements. An adverse opinion or a disclaimer of opinion will be cause for disallowance. The administrative authority will evaluate other qualifications on an individual basis. The administrative authority may disallow the use of this test on the basis of the accessibility of the assets of the parent corporation (corporate guarantor), permit holder, or applicant. The permit holder, applicant, or parent corporation must provide evidence of insurance for the entire amount of required liability coverage, as specified in this Section, within 30 days after notification of disallowance.

4. The permit holder, applicant, or parent corporation (if a corporate guarantor) of the permit holder or applicant shall provide to the Office of Environmental Services, Waste Permits Division, a letter from the chief financial officer, the wording of which shall be identical to the wording in LAC 33:VII.1399.Appendix I, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted. The letter shall certify the following information:

a. a list of facilities, whether in Louisiana or not, owned or operated by the permit holder, applicant for a standard permit, or parent corporation of the permit holder or applicant, for which financial assurance for liability coverage is demonstrated through the use of financial tests, including the amount of liability coverage;

b. a list of facilities, whether in Louisiana or not, owned or operated by the permit holder, applicant for a standard permit, or parent corporation of the permit holder or applicant, for which financial assurance for the closure or post-closure care is demonstrated through the use of a financial test or self-insurance by the permit holder or applicant, including the cost estimates for the closure and post-closure care of each facility;

c. a list of facilities, whether in Louisiana or not, owned or operated by the parent corporation and any subsidiaries of the parent corporation for which financial assurance for liability coverage or closure and/or post-

closure care is demonstrated through the financial test and/or corporate guarantee or through use of self-insurance, including the current cost estimate for the closure or post-closure care for each facility and the amount of annual aggregate liability coverage for each facility; and

d. a list of facilities, whether in Louisiana or not, for which financial assurance for closure or post-closure care is not demonstrated through the financial test, self-insurance, or other substantially equivalent state mechanisms, including the estimated cost of closure and post-closure of such facilities.

5. For the purposes of this Section, the phrase *tangible net worth* shall mean the tangible assets that remain after liabilities have been deducted; such assets would not include intangibles such as good will and rights to patents or royalties.

6. The phrase *current closure and post-closure cost estimates*, as used in Paragraph H.1 of this Section, includes the cost estimates required to be shown in Clause H.1.a.i of this Section.

7. After initial submission of the items specified in Paragraph H.2 of this Section, the permit holder, applicant, or parent corporation of the permit holder or applicant must send updated information to the Office of Environmental Services, Waste Permits Division, within 90 days after the close of each succeeding fiscal year. This information must include all three items specified in Paragraph H.2 and the adjusted item specified in Subparagraph A.2.c of this Section.

8. The administrative authority may, on the basis of a reasonable belief that the permit holder, applicant, or parent corporation of the permit holder or applicant may no longer meet the requirements of this Subsection, require reports of financial condition at any time in addition to those specified in Paragraph H.2 of this Section. If the administrative authority finds, on the basis of such reports or other information, that the permit holder, applicant, or parent corporation of the permit holder or applicant no longer meets the requirements of Paragraph H.2 of this Section, the permit holder or applicant, or parent corporation of the permit holder or applicant must provide alternate financial assurance as specified in this Section within 30 days after notification of such a finding.

9. A permit holder or applicant may meet the requirements of this Subsection for closure and/or post-closure by obtaining a written guarantee, hereafter referred to as a "corporate guarantee." The guarantor must be the parent corporation of the permit holder or applicant. The guarantor must meet the requirements and submit all information required for permit holders or applicants in Paragraphs H.1-8 of this Section and must comply with the terms of the corporate guarantee. The corporate guarantee must accompany the items sent to the administrative authority specified in Paragraphs H.2 and 4 of this Section. The wording of the corporate guarantee must be identical to the wording in LAC 33:VII.1399.Appendix J, except that instructions in brackets are to be replaced with the relevant information and the brackets removed. The terms of the corporate guarantee must be in an authentic act signed and sworn by an authorized officer of the corporation before a notary public and must provide that:

- a. the guarantor meets or exceeds the financial test criteria and agrees to comply with the reporting requirements for guarantors as specified in this Section;
- b. the guarantor is the parent corporation of the permit holder or applicant of the solid waste management facility or facilities to be covered by the guarantee, and the guarantee extends to certain facilities;
- c. *closure plans*, as used in the guarantee, refers to the plans maintained as required by the Louisiana solid waste rules and regulations for the closure and post-closure care of facilities, as identified in the guarantee;
- d. for value received from the permit holder or applicant, the guarantor guarantees to the Louisiana Department of Environmental Quality that the permit holder or applicant will perform closure, post-closure care, or closure and post-closure care of the facility or facilities listed in the guarantee, in accordance with the closure plan and other permit or regulatory requirements whenever required to do so. In the event that the permit holder or applicant fails to perform as specified in the closure plan, the guarantor shall do so or establish a trust fund as specified in Subparagraph A.2.d of this Section, in the name of the permit holder or applicant, in the amount of the current closure or post-closure cost estimates or as specified in Paragraph A.2 of this Section;
- e. the guarantor agrees that if, at the end of any fiscal year before termination of the guarantee, the guarantor fails to meet the financial test criteria, the guarantor shall send within 90 days after the end of the fiscal year, by certified mail, notice to the Office of Environmental Services, Waste Permits Division, and to the permit holder or applicant, that he intends to provide alternative financial assurance as specified in this Section, in the name of the permit holder or applicant, and that within 120 days after the end of such fiscal year, the guarantor shall establish such financial assurance unless the permit holder or applicant has done so;
- f. the guarantor agrees to notify the Office of Environmental Services, Waste Permits Division, by certified mail of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming the guarantor as debtor, within 10 days after commencement of the proceeding;
- g. the guarantor agrees that within 30 days after being notified by the administrative authority of a determination that the guarantor no longer meets the financial test criteria or that he is disallowed from continuing as a guarantor of closure or post-closure care, he shall establish alternate financial assurance as specified in this Section in the name of the permit holder or applicant, unless the permit holder or applicant has done so;
- h. the guarantor agrees to remain bound under the guarantee, notwithstanding any or all of the following: amendment or modification of the closure plan, amendment or modification of the permit, extension or reduction of the time of performance of closure or post-closure, or any other modification or alteration of an obligation of the permit holder or applicant in accordance with these regulations;
- i. the guarantor agrees to remain bound under the guarantee for as long as the permit holder must comply with the applicable financial assurance requirements of this Section, except that the guarantor may cancel this guarantee

by sending notice by certified mail to the Office of Environmental Services, Waste Permits Division, and the permit holder or applicant. The cancellation will become effective no earlier than 90 days after receipt of such notice by both the administrative authority and the permit holder or applicant, as evidenced by the return receipts;

- j. the guarantor agrees that if the permit holder or applicant fails to provide alternative financial assurance as specified in this Section, and to obtain written approval of such assurance from the administrative authority within 60 days after the administrative authority receives the guarantor's notice of cancellation, the guarantor shall provide such alternate financial assurance in the name of the owner or operator; and

- k. the guarantor expressly waives notice of acceptance of the guarantee by the administrative authority or by the permit holder. The guarantor also expressly waives notice of amendments or modifications of the closure plan and of amendments or modifications of the facility permit.

I. Local Government Financial Test. An owner or operator that satisfies the requirements of Paragraphs I.1-3 of this Section may demonstrate financial assurance up to the amount specified in Paragraph I.4 of this Section.

1. Financial Component

- a. The owner or operator must satisfy the following conditions, as applicable.

- i. If the owner or operator has outstanding, rated, general obligation bonds that are not secured by insurance, a letter of credit, or other collateral or guarantee, it must have a current rating of Aaa, Aa, A, or Baa, as issued by *Moody's*, or AAA, AA, A, or BBB, as issued by *Standard and Poor's*, on all such general obligation bonds.

- ii. The owner or operator must satisfy the ratio of cash plus marketable securities to total expenditures being greater than or equal to 0.05 and the ratio of annual debt service to total expenditures less than or equal to 0.20 based on the owner or operator's most recent audited annual financial statement.

- b. The owner or operator must prepare its financial statements in conformity with *Generally Accepted Accounting Principles* for governments and have its financial statements audited by an independent certified public accountant (or appropriate state agency).

- c. A local government is not eligible to assure its obligations under this Subsection if it:

- i. is currently in default on any outstanding general obligation bonds;

- ii. has any outstanding general obligation bonds rated lower than Baa as issued by *Moody's* or BBB as issued by *Standard and Poor's*;

- iii. operated at a deficit equal to five percent or more of total annual revenue in each of the past two fiscal years; or

- iv. receives an adverse opinion, disclaimer of opinion, or other qualified opinion from the independent certified public accountant (or appropriate state agency) auditing its financial statement as required under Subparagraph I.1.b of this Section. The administrative authority may evaluate qualified opinions on a case-by-case basis and allow use of the financial test in cases where the administrative authority deems the qualification insufficient to warrant disallowance of use of the test.

d. The following terms used in this Subsection are defined as follows:

i. *Deficit*—total annual revenues minus total annual expenditures.

ii. *Total Revenues*—revenues from all taxes and fees, not including the proceeds from borrowing or asset sales, excluding revenue from funds managed by local government on behalf of a specific third party.

iii. *Total Expenditures*—all expenditures, excluding capital outlays and debt repayment.

iv. *Cash Plus Marketable Securities*—all the cash plus marketable securities held by the local government on the last day of a fiscal year, excluding cash and marketable securities designated to satisfy past obligations such as pensions.

v. *Debt Service*—the amount of principal and interest due on a loan in a given time period, typically the current year.

2. Public Notice Component. The local government owner or operator must place a reference to the closure and post-closure care costs assured through the financial test into its next comprehensive annual financial report (CAFR) after the effective date of this Section or prior to the initial receipt of waste at the facility, whichever is later. Disclosure must include the nature and source of closure and post-closure care requirements, the reported liability at the balance sheet date, the estimated total closure and post-closure care cost remaining to be recognized, the percentage of landfill capacity used to date, and the estimated landfill life in years. A reference to corrective action costs must be placed in the CAFR not later than 120 days after the corrective action remedy has been selected in accordance with the requirements of LAC 33:VII.805.F. For the first year the financial test is used to assure costs at a particular facility, the reference may be placed in the operating record until issuance of the next available CAFR if timing does not permit the reference to be incorporated into the most recently issued CAFR or budget. For closure and post-closure costs, conformance with *Governmental Accounting Standards Board Statement 18* assures compliance with this public notice component.

3. Recordkeeping and Reporting Requirements

a. The local government owner or operator must place the following items in the facility's operating record:

i. a letter signed by the local government's chief financial officer that lists all the current cost estimates covered by a financial test, as described in Paragraph I.4 of this Section. It must provide evidence that the local government meets the conditions of Subparagraphs I.1.a, b, and c of this Section, and certify that the local government meets the conditions of Subparagraphs I.1.a, b, and c and Paragraphs I.2 and 4 of this Section;

ii. the local government's independently audited year-end financial statements for the latest fiscal year (except for local governments where audits are required every two years, unaudited statements, which may be used in years when audits are not required), including the unqualified opinion of the auditor who must be an independent certified public accountant or an appropriate state agency that conducts equivalent comprehensive audits;

iii. a report to the local government from the local government's independent certified public accountant or the

appropriate state agency based on performing an agreed upon procedures engagement relative to the financial ratios required by Clause I.1.a.ii of this Section, if applicable, and the requirements of Subparagraph I.1.b and Clauses I.1.c.iii and iv of this Section. The certified public accountant or state agency's report shall state the procedures performed and the certified public accountant or state agency's findings; and

iv. a copy of the comprehensive annual financial report (CAFR) used to comply with Paragraph I.2 of this Section (certification that the requirements of *Governmental Accounting Standards Board Statement 18* have been met).

b. The items required in Subparagraph I.3.a of this Section must be placed in the facility operating record as follows:

i. in the case of closure and post-closure care, either before the effective date of this Section, which is April 9, 1997, or prior to the initial receipt of waste at the facility, whichever is later; or

ii. in the case of corrective action, not later than 120 days after the corrective action remedy is selected in accordance with the requirements of LAC 33:VII.805.F.

c. After the initial placement of the items in the facility's operating record, the local government owner or operator must update the information and place the updated information in the operating record within 180 days following the close of the owner or operator's fiscal year.

d. The local government owner or operator is no longer required to meet the requirements of Paragraph I.3 of this Section when:

i. the owner or operator substitutes alternate financial assurance, as specified in this Section; or

ii. the owner or operator is released from the requirements of this Chapter in accordance with LAC 33:VII.1301.A or Subsection A of this Section.

e. A local government must satisfy the requirements of the financial test at the close of each fiscal year. If the local government owner or operator no longer meets the requirements of the local government financial test, it must, within 210 days following the close of the owner or operator's fiscal year, obtain alternative financial assurance that meets the requirements of this Section, place the required submissions for that assurance in the operating record, and notify the Office of Environmental Services, Waste Permits Division, that the owner or operator no longer meets the criteria of the financial test and that alternate assurance has been obtained.

f. The administrative authority, based on a reasonable belief that the local government owner or operator may no longer meet the requirements of the local government financial test, may require additional reports of financial condition from the local government at any time. If the administrative authority finds, on the basis of such reports or other information, that the owner or operator no longer meets the local government financial test, the local government must provide alternate financial assurance in accordance with this Section.

4. Calculation of Costs to be Assured. The portion of the closure, post-closure, and corrective action costs for which an owner or operator can assure under this Subsection is determined as follows.

a. If the local government owner or operator does not assure other environmental obligations through a financial test, it may assure closure, post-closure, and corrective action costs that equal up to 43 percent of the local government's total annual revenue.

b. If the local government assures other environmental obligations through a financial test, including those associated with UIC facilities under 40 CFR 144.62, petroleum underground storage tank facilities under 40 CFR Part 280, PCB storage facilities under 40 CFR Part 761, and hazardous waste treatment, storage, and disposal facilities under 40 CFR Parts 264 and 265, or corresponding state programs, it must add those costs to the closure, post-closure, and corrective action costs it seeks to assure under this Subsection. The total that may be assured must not exceed 43 percent of the local government's total annual revenue.

c. The owner or operator must obtain an alternate financial assurance instrument for those costs that exceed the limits set in Subparagraphs I.4.a and b of this Section.

J. Local Government Guarantee. An owner or operator may demonstrate financial assurance for closure, post-closure, and corrective action, as required by LAC 33:VII.1301 and this Section, by obtaining a written guarantee provided by a local government. The guarantor must meet the requirements of the local government financial test in Subsection I of this Section, and must comply with the terms of a written guarantee.

1. Terms of the Written Guarantee. The guarantee must be effective before the initial receipt of waste or before the effective date of this Section, whichever is later, in the case of closure and post-closure care, or no later than 120 days after the corrective action remedy has been selected in accordance with the requirements of LAC 33:VII.805.F. The guarantee must provide that:

a. if the owner or operator fails to perform closure, post-closure care, and/or corrective action of a facility covered by the guarantee, the guarantor will:

i. perform, or pay a third party to perform closure, post-closure care, and/or corrective action as required; or

ii. establish a fully funded trust fund as specified in Subsection C of this Section in the name of the owner or operator;

b. the guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator and to the Office of Environmental Services, Waste Permits Division. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the administrative authority, as evidenced by the return receipts; and

c. if a guarantee is canceled, the owner or operator must, within 90 days following receipt of the cancellation notice by the owner or operator and the administrative authority, obtain alternate financial assurance, place evidence of that alternate financial assurance in the facility operating record, and notify the Office of Environmental Services, Waste Permits Division. If the owner or operator fails to provide alternate financial assurance within the 90-day period, then the owner or operator must provide that

alternate assurance within 120 days following the guarantor's notice of cancellation, place evidence of the alternate assurance in the facility operating record, and notify the Office of Environmental Services, Waste Permits Division.

2. Recordkeeping and Reporting

a. The owner or operator must place a certified copy of the guarantee, along with the items required under Paragraph I.3 of this Section, into the facility's operating record before the initial receipt of waste or before the effective date of this Section, whichever is later, in the case of closure or post-closure care, or no later than 120 days after the corrective action remedy has been selected in accordance with the requirements of LAC 33:VII.805.F.

b. The owner or operator is no longer required to maintain the items specified in Paragraph J.2 of this Section when:

i. the owner or operator substitutes alternate financial assurance as specified in this Section; or

ii. the owner or operator is released from the requirements of this Section in accordance with this Chapter.

c. If a local government guarantor no longer meets the requirements of Subsection I of this Section, the owner or operator must, within 90 days, obtain alternate assurance, place evidence of the alternate assurance in the facility operating record, and notify the Office of Environmental Services, Waste Permits Division. If the owner or operator fails to obtain alternate financial assurance within that 90-day period, the guarantor must provide that alternate assurance within the next 30 days.

K. Use of Multiple Mechanisms. An owner or operator may demonstrate financial assurance for closure, post-closure, and corrective action, in accordance with this Chapter, by establishing more than one financial mechanism per facility, except that mechanisms guaranteeing performance, rather than payment, may not be combined with other instruments. The mechanisms must be as specified in Subsections C-H of this Section, except that financial assurance for an amount at least equal to the current cost estimate for closure, post-closure care, and/or corrective action may be provided by a combination of mechanisms, rather than a single mechanism.

L. Discounting. The administrative authority may allow discounting of closure and post-closure cost estimates in Subsection A of this Section, and/or corrective action costs in LAC 33:VII.1301.A, up to the rate of return for essentially risk-free investments, net of inflation, under the following conditions:

1. the administrative authority determines that cost estimates are complete and accurate and the owner or operator has submitted a statement from a professional engineer to the Office of Environmental Services, Waste Permits Division, so stating;

2. the state finds the facility in compliance with applicable and appropriate permit conditions;

3. the administrative authority determines that the closure date is certain and the owner or operator certifies that there are no foreseeable factors that will change the estimate of site life; and

4. discounted cost estimates are adjusted annually to reflect inflation and years of remaining life.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2522 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1090 (June 2007).

§1305. Financial Responsibility for Corrective Action for Type II Landfills [Formerly §727.B]

NOTE: Former §1305 has moved to §1405.

A. A permit holder of a Type II landfill required to undertake a corrective action program under LAC 33:VII.805 must provide to the Office of Environmental Services, Waste Permits Division, a detailed written estimate, in current dollars, of the cost of hiring a third party to perform the corrective action in accordance with the program required under LAC 33:VII.805. The corrective action cost estimate must account for the total costs of corrective action activities as described in the corrective action plan for the entire corrective action period.

1. The permit holder must provide an annual adjustment of the estimate for inflation to the Office of Environmental Services, Waste Permits Division, until the corrective action program is completed in accordance with LAC 33:VII.805.

2. The permit holder must provide an increased corrective action cost estimate to the Office of Environmental Services, Waste Permits Division, and the amount of financial assurance provided under Subsection B of this Section if changes in the corrective action program or landfill conditions increase the maximum costs of corrective action.

3. Subject to approval of the administrative authority, the permit holder shall provide a reduced corrective action cost estimate to the Office of Environmental Services, Waste Permits Division, and the amount of financial assurance provided under Subsection B of this Section if the cost estimate exceeds the maximum remaining costs of corrective action. The permit holder must provide the Office of Environmental Services, Waste Permits Division, justification for the reduction of the corrective action cost estimate and the revised amount of financial assurance.

B. The permit holder of each Type II landfill required to undertake a corrective action program under LAC 33:VII.805 must establish, in a manner in accordance with LAC 33:VII.1303, financial assurance for the most recent corrective action program. The financial assurance must be provided within 120 days after the selection of the corrective action remedy in LAC 33:VII.805.F. The permit holder must provide continuous coverage for corrective action until released from financial assurance requirements for corrective action by demonstrating compliance with LAC 33:VII.805.G.8-10. For the purpose of corrective action financial assurance only the words "corrective action" shall be substituted for the words "closure" or "post-closure" throughout this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2524 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1098 (June 2007).

§1399. Financial Documents—Appendices A, B, C, D, E, F, G, H, I, and J [Formerly within §727]

A. Appendix A

SOLID WASTE FACILITY LIABILITY ENDORSEMENT

Secretary
Louisiana Department of Environmental Quality
Post Office Box 4313
Baton Rouge, Louisiana 70821-4313
Attention: Office of Environmental Services,
Waste Permits Division
RE: [Facility name, agency interest number, and permit number]

Dear Sir:

1. This endorsement certifies that the policy to which the endorsement is attached provides liability insurance covering bodily injury and property damage in connection with [name of the insured, which must be the permit holder, the applicant, or the operator. (Note: The operator will provide the liability-insurance documentation only when the permit holder/applicant is a public governing body and the public governing body is not the operator.)] The insured's obligation to demonstrate financial responsibility is required in accordance with LAC 33:VII.1301. The coverage applies at [list the facility name, site name, agency interest number, site identification number, facility permit number, and facility address] for sudden and accidental occurrences. The limits of liability are [insert amount of coverage] per each occurrence and [insert amount of coverage] annual aggregate, per site, exclusive of legal-defense costs.

2. The insurance afforded with respect to such occurrences is subject to all of the terms and conditions of the policy; provided, however, that any provisions of the policy inconsistent with Subclauses (a) through (e) below are hereby amended to conform with Subclauses (a) through (e) below:

(a). Bankruptcy or insolvency of the insured shall not relieve the insurer of its obligations under the policy to which this endorsement is attached.

(b). The insurer is liable for the payment of amounts within any deductible applicable to the policy, with a right of reimbursement by the insured for any such payment made by the insurer. This provision does not apply with respect to that amount of any deductible for which coverage is demonstrated as specified in LAC 33:VII.1301.B.2, 3, or 4.

(c). Whenever requested by the administrative authority, the insurer agrees to furnish to the administrative authority a signed duplicate original of the policy and all endorsements.

(d). Cancellation of this endorsement, whether by the insurer or the insured, will be effective only upon written notice and upon lapse of 60 days after a copy of such written notice is received by the administrative authority.

(e). Any other termination of this endorsement will be effective only upon written notice and upon lapse of 30 days after a copy of such written notice is received by the administrative authority.

3. Attached is the endorsement, which forms part of the policy [policy number] issued by [name of insurer], herein called the insurer, of [address of the insurer] to [name of the insured] of [address of the insured], this [date]. The effective date of said policy is [date].

4. I hereby certify that the wording of this endorsement is identical to the wording specified in LAC 33:VII.1399.Appendix A, effective on the date first written above and that insurer is licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one or more states, and is admitted, authorized, or eligible to conduct insurance business in the state of Louisiana.

[Signature of authorized representative of insurer]
[Typed name of authorized representative of insurer]
[Title of authorized representative of insurer]
[Address of authorized representative of insurer]

B. Appendix B

SOLID WASTE FACILITY CERTIFICATE OF LIABILITY INSURANCE

Secretary
Louisiana Department of Environmental Quality
Post Office Box 4313
Baton Rouge, Louisiana 70821-4313
Attention: Office of Environmental Services,
Waste Permits Division
RE: [Facility name, agency interest number, and permit
number]

Dear Sir:

1. [Name of insurer], the "insurer," of [address of insurer] hereby certifies that it has issued liability insurance covering bodily injury and property damage to [name of insured, which must be either the permit holder or applicant of the facility], the "insured," of [address of insured] in connection with the insured's obligation to demonstrate financial responsibility under LAC 33:VII.1301. The coverage applies at [list facility name, site name, agency interest number, site identification number, facility permit number, and facility address] for sudden and accidental occurrences. The limits of liability are [insert amount of coverage] per each occurrence and [insert amount of coverage] annual aggregate, per site, exclusive of legal-defense costs. The coverage is provided under policy number [policy number], issued on [date]. The effective date of said policy is [date].

2. The insurer further certifies the following with respect to the insurance described in Paragraph 1:

(a). Bankruptcy or insolvency of the insured shall not relieve the insurer of its obligations under the policy.

(b). The insurer is liable for the payment of amounts within any deductible applicable to the policy, with a right of reimbursement by the insured for any such payment made by the insurer. This provision does not apply with respect to that amount of any deductible for which coverage is demonstrated, as specified in LAC 33:VII.1301.B.2, 3, or 4.

(c). Whenever requested by the administrative authority, the insurer agrees to furnish to him a signed duplicate original of the policy and all endorsements.

(d). Cancellation of the insurance, whether by the insurer or the insured, will be effective only upon written notice and upon lapse of 60 days after a copy of such written notice is received by the administrative authority.

(e). Any other termination of the insurance will be effective only upon written notice and upon lapse of 30 days after a copy of such written notice is received by the administrative authority.

3. I hereby certify that the wording of this certificate is identical to the wording specified in LAC 33:VII.1399.Appendix B as such regulations were constituted on the date first written above, and that the insurer is licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one or more states, and is admitted, authorized, or eligible to conduct insurance business in the state of Louisiana.

[Signature of authorized representative of insurer]

[Typed name of authorized representative of insurer]

[Title of authorized representative of insurer]

[Address of authorized representative of insurer]

C. Appendix C

SOLID WASTE FACILITY IRREVOCABLE LETTER OF CREDIT (For Liability Coverage During Operation)

Secretary
Louisiana Department of Environmental Quality
Post Office Box 4313
Baton Rouge, Louisiana 70821-4313
Attention: Office of Environmental Services,
Waste Permits Division
RE: [Facility name, agency interest number, and permit
number]

Dear Sir:

We hereby establish our Irrevocable Standby Letter of Credit No. [number] at the request and for the account of [permit holder's or applicant's name and address] for its [list facility name, site name, agency interest number, site identification number, and facility permit number] at

[location], Louisiana, in favor of any governmental body, person, or other entity for any sum or sums up to the aggregate amount of U.S. dollars \$[amount] upon presentation of:

1. A final judgment issued by a competent court of law in favor of a governmental body, person, or other entity and against [permit holder's or applicant's name] for sudden and accidental occurrences for claims arising out of injury to persons or property due to the operation of the solid waste site at the [name of permit holder or applicant] at [site location] as set forth in LAC 33:VII.1301.

2. A sight draft bearing reference to the Letter of Credit No. [number] drawn by the governmental body, person, or other entity, in whose favor the judgment has been rendered as evidenced by documentary requirement in Paragraph 1.

The Letter of Credit is effective as of [date] and will expire on [date], but such expiration date will be automatically extended for a period of at least 1 year on the above expiration date [date] and on each successive expiration date thereafter, unless, at least 120 days before the then-current expiration date, we notify both the administrative authority and [name of permit holder or applicant] by certified mail that we have decided not to extend this Letter of Credit beyond the then-current expiration date. In the event we give such notification, any unused portion of this Letter of Credit shall be available upon presentation of your sight draft for 120 days after the date of receipt by both the Department of Environmental Quality and [name of permit holder/applicant] as shown on the signed return receipts.

Whenever this Letter of Credit is drawn under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us, and we shall deposit the amount of the draft directly into the standby trust fund of [name of permit holder or applicant] in accordance with the administrative authority's instructions.

Except to the extent otherwise expressly agreed to, the [insert "the most recent edition of the Uniform Customs and Practice for Documentary Credits, published and copyrighted by the International Chamber of Commerce," or "the Uniform Commercial Code"], shall apply to this Letter of Credit.

We certify that the wording of this Letter of Credit is identical to the wording specified in LAC 33:VII.1399.Appendix C, effective on the date shown immediately below.

[Signature(s) and title(s) of official(s) of issuing institution(s)]
[Date]

D. Appendix D

SOLID WASTE FACILITY TRUST AGREEMENT/STANDBY TRUST AGREEMENT [Facility name, agency interest number, and permit number]

This Trust Agreement, the "Agreement," is entered into as of [date] by and between [name of permit holder or applicant], a [name of state] [insert "corporation," "partnership," "association," or "proprietorship"], the "Grantor," and [name of corporate trustee], [insert "incorporated in the state of" or "a national bank" or "a state bank"], the "Trustee."

WHEREAS, the Department of Environmental Quality of the State of Louisiana, an agency of the state of Louisiana, has established certain regulations applicable to the Grantor, requiring that a permit holder or applicant for a permit of a solid waste processing or disposal facility shall provide assurance that funds will be available when needed for [closure and/or post-closure] care of the facility;

WHEREAS, the Grantor has elected to establish a trust to provide all or part of such financial assurance for the facility identified herein;

WHEREAS, the Grantor, acting through its duly authorized officers, has selected [the Trustee] to be the trustee under this Agreement, and [the Trustee] is willing to act as trustee.

NOW, THEREFORE, the Grantor and the Trustee agree as follows:

SECTION 1. DEFINITIONS

As used in this Agreement:

(a). The term Grantor means the permit holder or applicant who enters into this Agreement and any successors or assigns of the Grantor.

(b). The term Trustee means the Trustee who enters into this Agreement and any successor trustee.

(c). The term Secretary means the Secretary of the Louisiana Department of Environmental Quality.

(d). The term Administrative Authority means the Secretary or his designee or the appropriate assistant secretary or his designee.

SECTION 2. IDENTIFICATION OF FACILITIES AND COST ESTIMATES

This Agreement pertains to the facilities and cost estimates identified on attached Schedule A. [On Schedule A, list the site identification number, site name, facility name, facility permit number, and the annual aggregate amount of liability coverage or current closure and/or post-closure cost estimates, or portions thereof, for which financial assurance is demonstrated by this Agreement.]

SECTION 3. ESTABLISHMENT OF FUND

The Grantor and the Trustee hereby establish a trust fund, the "Fund," for the benefit of the Louisiana Department of Environmental Quality. The Grantor and the Trustee intend that no third party shall have access to the Fund, except as herein provided. The Fund is established initially as consisting of the property, which is acceptable to the Trustee, described in Schedule B attached hereto. [Note: Standby Trust Agreements need not be funded at the time of execution. In the case of Standby Trust Agreements, Schedule B should be blank except for a statement that the Agreement is not presently funded, but shall be funded by the financial assurance document used by the Grantor in accordance with the terms of that document.] Such property and any other property subsequently transferred to the Trustee is referred to as the Fund, together with all earnings and profits thereon, less any payments or distributions made by the Trustee pursuant to this Agreement. The Fund shall be held by the Trustee, in trust, as hereinafter provided. The Trustee shall not be responsible nor shall it undertake any responsibility for the amount or adequacy of, nor any duty to collect from the Grantor, any payments necessary to discharge any liabilities of the Grantor established by the administrative authority.

SECTION 4. PAYMENT FOR CLOSURE AND/OR POST-CLOSURE CARE OR LIABILITY COVERAGE

The Trustee shall make payments from the Fund as the administrative authority shall direct, in writing, to provide for the payment of the costs of [liability claims, closure and/or post-closure] care of the facility covered by this Agreement. The Trustee shall reimburse the Grantor or other persons as specified by the administrative authority from the Fund for [liability claims, closure and/or post-closure] expenditures in such amounts as the administrative authority shall direct in writing. In addition, the Trustee shall refund to the Grantor such amounts as the administrative authority specifies in writing. Upon refund, such funds shall no longer constitute part of the Fund as defined herein.

SECTION 5. PAYMENTS COMPRISED BY THE FUND

Payments made to the Trustee for the Fund shall consist of cash or securities acceptable to the Trustee.

SECTION 6. TRUSTEE MANAGEMENT

The Trustee shall invest and reinvest the principal and income of the Fund and keep the Fund invested as a single fund, without distinction between principal and income, in accordance with general investment policies and guidelines, which the Grantor may communicate in writing to the Trustee from time to time, subject, however, to the provisions of this Section. In investing, reinvesting, exchanging, selling, and managing the Fund, the Trustee shall discharge his duties with respect to the trust fund solely in the interest of the beneficiary and with the care, skill, prudence, and diligence under the circumstances then prevailing that persons of prudence, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of like character and with like aims, except that:

(a). Securities or other obligations of the Grantor, or any owner of the [facility or facilities] or any of their affiliates, as defined in the Investment Company Act of 1940, as amended, 15 U.S.C. 80a-2.(a), shall not be acquired or held, unless they are securities or other obligations of the federal or a state government;

(b). The Trustee is authorized to invest the Fund in time or demand deposits of the Trustee, to the extent insured by an agency of the federal or state government; and

(c). The Trustee is authorized to hold cash awaiting investment or distribution, uninvested for a reasonable time and without liability for the payment of interest thereon.

SECTION 7. COMMINGLING AND INVESTMENT

The Trustee is expressly authorized, at its discretion:

(a). To transfer from time to time any or all of the assets of the Fund to any common, commingled, or collective trust fund created by the Trustee in which the Fund is eligible to participate, subject to all provisions thereof, to be commingled with the assets of other trusts participating therein; and

(b). To purchase shares in any investment company registered under the Investment Company Act of 1940, 15 U.S.C. 80a-1, et seq., including one which may be created, managed, or underwritten, or one to which investment advice is rendered or the shares of which are sold by the Trustee. The Trustee may vote such shares at its discretion.

SECTION 8. EXPRESS POWERS OF TRUSTEE

Without in any way limiting the powers and discretion conferred upon the Trustee by the other provisions of this Agreement or by law, the Trustee is expressly authorized and empowered:

(a). To sell, exchange, convey, transfer, or otherwise dispose of any property held by it, by public or private sale. No person dealing with the Trustee shall be bound to see to the application of the purchase money or to inquire into the validity or expediency of any such sale or other disposition;

(b). To make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;

(c). To register any securities held in the Fund in its own name or in the name of a nominee and to hold any security in bearer form or in book entry, or to combine certificates representing such securities with certificates of the same issue held by the Trustee in other fiduciary capacities, or to deposit or arrange for the deposit of such securities in a qualified central depository even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee of such depository with other securities deposited therein by another person, or to deposit or arrange for the deposit of any securities issued by the United States Government, or any agency or instrumentality thereof, with a Federal Reserve Bank, but the books and records of the Trustee shall at all times show that all securities are part of the Fund;

(d). To deposit any cash in the Fund in interest-bearing accounts maintained or savings certificates issued by the Trustee, in its separate corporate capacity, or in any other banking institution affiliated with the Trustee, to the extent insured by an agency of the federal or state government; and

(e). To compromise or otherwise adjust all claims in favor of, or against, the Fund.

SECTION 9. TAXES AND EXPENSES

All taxes of any kind that may be assessed or levied against or in respect of the Fund and all brokerage commissions incurred by the Fund shall be paid from the Fund. All other expenses incurred by the Trustee in connection with the administration of this Trust, including fees for legal services rendered to the Trustee, the compensation of the Trustee to the extent not paid directly by the Grantor, and other proper charges and disbursements of the Trustee, shall be paid from the Fund.

SECTION 10. ANNUAL VALUATION

The Trustee shall annually, at least 30 days prior to the anniversary date of establishment of the Fund, furnish to the Grantor and to the administrative authority a statement confirming the value of the Trust. Any securities in the Fund shall be valued at market value as of no more than 60 days prior to the anniversary date of establishment of the Fund. The failure of the Grantor to object in writing to the Trustee, within 90 days after the statement has been furnished to the

Grantor and the administrative authority, shall constitute a conclusively binding assent by the Grantor, barring the Grantor from asserting any claim or liability against the Trustee with respect to matters disclosed in the statement.

SECTION 11. ADVICE OF COUNSEL

The Trustee may from time to time consult with counsel, who may be counsel to the Grantor, with respect to any questions arising as to the construction of this Agreement or any action to be taken hereunder. The Trustee shall be fully protected, to the extent permitted by law, in acting upon the advice of counsel.

SECTION 12. TRUSTEE COMPENSATION

The Trustee shall be entitled to reasonable compensation for its services, as agreed upon in writing from time to time with the Grantor.

SECTION 13. SUCCESSOR TRUSTEE

The Trustee may resign or the Grantor may replace the Trustee, but such resignation or replacement shall not be effective until the Grantor has appointed a successor trustee and this successor accepts the appointment. The successor trustee shall have the same powers and duties as those conferred upon the Trustee hereunder. Upon the successor trustee's acceptance of the appointment, the Trustee shall assign, transfer, and pay over to the successor trustee the funds and properties then constituting the Fund. If for any reason the Grantor cannot or does not act in the event of the resignation of the Trustee, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor trustee or for instructions. The successor trustee shall, in writing, specify to the Grantor, the administrative authority, and the present Trustee, by certified mail 10 days before such change becomes effective, the date on which it assumes administration of the trust. Any expenses incurred by the Trustee as a result of any of the acts contemplated by this Section shall be paid as provided in Section 9.

SECTION 14. INSTRUCTIONS TO THE TRUSTEE

All orders, requests, and instructions by the Grantor to the Trustee shall be in writing, signed by the persons designated in the attached Exhibit A or such other persons as the Grantor may designate by amendment to Exhibit A. The Trustee shall be fully protected in acting without inquiry in accordance with the Grantor's orders, requests, and instructions. All orders, requests, and instructions by the administrative authority to the Trustee shall be in writing and signed by the administrative authority. The Trustee shall act and shall be fully protected in acting in accordance with such orders, requests, and instructions. The Trustee shall have the right to assume, in the absence of written notice to the contrary, that no event constituting a change or termination of the authority of any person to act on behalf of the Grantor or administrative authority hereunder has occurred. The Trustee shall have no duty to act in the absence of such orders, requests, and instructions from the Grantor and/or administrative authority, except as provided for herein.

SECTION 15. NOTICE OF NONPAYMENT

The Trustee shall notify the Grantor and the administrative authority, by certified mail, within 10 days following the expiration of the 30-day period after the anniversary of the establishment of the Trust, if no payment is received from the Grantor during that period. After the pay-in period is completed, the Trustee shall not be required to send a notice of nonpayment.

SECTION 16. AMENDMENT OF AGREEMENT

This Agreement may be amended by an instrument, in writing, executed by the Grantor, the Trustee, and the administrative authority, or by the Trustee and the administrative authority, if the Grantor ceases to exist.

SECTION 17. IRREVOCABILITY AND TERMINATION

Subject to the right of the parties to amend this Agreement, as provided in Section 16, this Trust shall be irrevocable and shall continue until terminated at the written agreement of the Grantor, the Trustee, and the administrative authority, or by the Trustee and the administrative authority, if the Grantor ceases to exist. Upon termination of the Trust, all remaining trust property, less final trust administration expenses, shall be delivered to the Grantor.

SECTION 18. IMMUNITY AND INDEMNIFICATION

The Trustee shall not incur personal liability of any nature in connection with any act or omission, made in good faith, in the administration of this Trust, or in carrying out any direction by the Grantor or the administrative authority issued in accordance with this Agreement. The Trustee shall be indemnified and saved harmless by the Grantor or from the Trust Fund, or both, from and against any personal liability to which the Trustee may be subjected by reason of any act or conduct in its official capacity, including all reasonable expenses incurred in its defense in the event that the Grantor fails to provide such defense.

SECTION 19. CHOICE OF LAW

This Agreement shall be administered, construed, and enforced according to the laws of the state of Louisiana.

SECTION 20. INTERPRETATION

As used in this Agreement, words in the singular include the plural and words in the plural include the singular. The descriptive headings for each Section of this Agreement shall not affect the interpretation or the legal efficacy of this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their respective officers duly authorized [and their corporate seals to be hereunto affixed] and attested to as of the date first above written. The parties below certify that the wording of this Agreement is identical to the wording specified in LAC 33:VII.1399.Appendix D, on the date first written above.

WITNESSES:

GRANTOR:

Its: _____
[Seal]

By: _____

TRUSTEE:

By: _____
Its: _____
[Seal]

THUS DONE AND PASSED in my office in _____, on the _____ day of _____, 20 _____, in the presence of _____ and _____, competent witnesses, who hereunto sign their names with the said appearers and me, Notary, after reading the whole.

Notary Public

[Example of Formal Certification of Acknowledgement]

STATE OF LOUISIANA

PARISH OF _____

BE IT KNOWN, that on this _____ day of _____, 20 __, before me, the undersigned Notary Public, duly commissioned and qualified within the State and Parish aforesaid, and in the presence of the witnesses hereinafter named and undersigned, personally came and appeared _____, to me well known, who declared and acknowledged that he had signed and executed the foregoing instrument as his act and deed, and as the act and deed of the _____, a corporation, for the consideration, uses, and purposes and on terms and conditions therein set forth.

And the said appearer, being by me first duly sworn, did depose and say that he is the _____ of said corporation and that he signed and executed said instrument in his said capacity, and under authority of the Board of Directors of said corporation.

Thus done and passed in the State and Parish aforesaid, on the day and date first hereinabove written, and in the presence of _____ and _____, competent witnesses, who have hereunto subscribed their names as such, together with said appearer and me, said authority, after due reading of the whole.

WITNESSES:

NOTARY PUBLIC:

E. Appendix E

SOLID WASTE FACILITY
FINANCIAL GUARANTEE BOND

[Facility name, agency interest number, and permit number]

Date bond was executed: _____

Effective date: _____

Principal: [legal name and business address of permit holder or applicant]

Type of organization: [insert "individual," "joint venture," "partnership," or "corporation"]

State of incorporation: _____

Surety: [name and business address]
[facility name, site name, agency interest number, site identification number, facility permit number, and current closure and/or post-closure amount(s) for each facility guaranteed by this bond]

Total penal sum of bond: \$ _____

Surety's bond number: _____

Know All Persons By These Presents, That we, the Principal and Surety hereto, are firmly bound to the Louisiana Department of Environmental Quality in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where Sureties are corporations acting as co sureties, we the sureties bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit or liability is indicated, the limit of liability shall be the full amount of the penal sum.

WHEREAS, said Principal is required, under the Resource Conservation and Recovery Act as amended (RCRA) and the Louisiana Environmental Quality Act, R.S. 30:2001, et seq., to have a permit in order to own or operate the solid waste facility identified above; and

WHEREAS, the Principal is required by law to provide financial assurance for closure and/or post-closure care, as a condition of the permit; and

WHEREAS, said Principal shall establish a standby trust fund as is required by the Louisiana Administrative Code, Title 33, Part VII, when a surety bond is used to provide such financial assurance;

NOW THEREFORE, the conditions of the obligation are such that if the Principal shall faithfully, before the beginning of final closure of the facility identified above, fund the standby trust fund in the amount(s) identified above for the facility,

OR, if the Principal shall fund the standby trust fund in such amount(s) within 15 days after an order to close is issued by the administrative authority or a court of competent jurisdiction,

OR, if the Principal shall provide alternate financial assurance as specified in LAC 33:VII.1303 and obtain written approval from the administrative authority of such assurance, within 90 days after the date of notice of cancellation is received by both the Principal and the administrative authority from the Surety, then this obligation shall be null and void; otherwise it is to remain in full force and effect.

The Surety shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above. Upon notification by the administrative authority that the Principal has failed to perform as guaranteed by this bond, the Surety shall place funds in the amount guaranteed for the facility into the standby trust fund as directed by the administrative authority.

The Surety hereby waives notification or amendments to closure plans, permits, applicable laws, statutes, rules, and regulations, and agrees that no such amendment shall in any way alleviate its obligation on this bond.

The liability of the Surety shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety hereunder exceed the amount of the penal sum.

The Surety may cancel the bond by sending notice of cancellation by certified mail to the Principal and to the administrative authority. Cancellation shall not occur before 120 days have elapsed beginning on the date that both the Principal and the administrative authority received the notice of cancellation, as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety and to the administrative authority, provided, however, that no such notice shall become effective until the Surety receives written authorization for termination of the bond by the administrative authority.

Principal and Surety hereby agree to adjust the penal sum of the bond yearly in accordance with LAC 33:VII.1303, and the conditions of the solid waste facility permit so that it guarantees a new closure and/or post-closure amount, provided that the penal sum does not increase or decrease without the written permission of the administrative authority.

The Principal and Surety hereby agree that no portion of the penal sum may be expended without prior written approval of the administrative authority.

IN WITNESS WHEREOF, the Principal and the Surety have executed this FINANCIAL GUARANTEE BOND and have affixed their seals on the date set forth above.

Those persons whose signatures appear below hereby certify that they are authorized to execute this FINANCIAL GUARANTEE BOND on behalf of the Principal and Surety, that each Surety hereto is authorized to do business in the state of Louisiana, and that the wording of this surety bond is identical to the wording specified in LAC 33:VII.1399.Appendix E, effective on the date this bond was executed.

PRINCIPAL
[Signature(s)]
[Name(s)]
[Title(s)]
[Corporate seal]

CORPORATE SURETIES
[Name and address]
State of incorporation: _____
Liability limit: \$ _____
[Signature(s)]
[Name(s) and title(s)]
[Corporate seal]
[This information must be provided for each cosurety]
Bond Premium: \$ _____

F. Appendix F

SOLID WASTE FACILITY
PERFORMANCE BOND

[Facility name, agency interest number, and permit number]

Date bond was executed: _____

Effective date: _____

Principal: [legal name and business address of permit holder or applicant]

Type of organization: [insert "individual," "joint venture," "partnership," or "corporation"]

State of incorporation: _____

Surety: [name(s) and business address(es)]
[facility name, site name, agency interest number, site identification number, facility permit number, facility address, and closure and/or post-closure amount(s) for each facility guaranteed by this bond (indicate closure and/or post-closure costs separately)]

Total penal sum of bond: \$ _____

Surety's bond number: _____

Know All Persons By These Presents, That we, the Principal and Surety hereto are firmly bound to the Louisiana Department of Environmental Quality in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where Sureties are corporations acting as cosureties, we, the Sureties, bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other

purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

WHEREAS, said Principal is required, under the Resource Conservation and Recovery Act as amended (RCRA) and the Louisiana Environmental Quality Act, R.S. 30:2001, et seq., to have a permit in order to own or operate the solid waste facility identified above; and

WHEREAS, the Principal is required by law to provide financial assurance for closure and/or post-closure care, as a condition of the permit; and

WHEREAS, said Principal shall establish a standby trust fund as is required by the *Louisiana Administrative Code*, Title 33, Part VII, when a surety bond is used to provide such financial assurance;

THEREFORE, the conditions of this obligation are such that if the Principal shall faithfully perform closure, whenever required to do so, of the facility for which this bond guarantees closure, in accordance with the closure plan and other requirements of the permit as such plan and permit may be amended, pursuant to all applicable laws, statutes, rules, and regulations, as such laws, statutes, rules, and regulations may be amended;

AND, if the Principal shall faithfully perform post-closure care of each facility for which this bond guarantees post-closure care, in accordance with the closure plan and other requirements of the permit, as such plan and permit may be amended, pursuant to all applicable laws, statutes, rules, and regulations, as such laws, statutes, rules, and regulations may be amended;

OR, if the Principal shall provide financial assurance as specified in LAC 33:VII.1303 and obtain written approval of the administrative authority of such assurance, within 90 days after the date of notice of cancellation is received by both the Principal and the administrative authority, then this obligation shall be null and void; otherwise it is to remain in full force and effect.

The surety shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described hereinabove.

Upon notification by the administrative authority that the Principal has been found in violation of the closure requirements of LAC 33:Part VII, or of its permit, for the facility for which this bond guarantees performances of closure, the Surety shall either perform closure, in accordance with the closure plan and other permit requirements, or place the closure amount guaranteed for the facility into the standby trust fund as directed by the administrative authority.

Upon notification by the administrative authority that the Principal has been found in violation of the post-closure requirements of LAC 33:Part VII, or of its permit for the facility for which this bond guarantees performance of post-closure, the Surety shall either perform post-closure in accordance with the closure plan and other permit requirements or place the post-closure amount guaranteed for the facility into the standby trust fund as directed by the administrative authority.

Upon notification by the administrative authority that the Principal has failed to provide alternate financial assurance as specified in LAC 33:VII.1303 and obtain written approval of such assurance from the administrative authority during the 90 days following receipt by both the Principal and the administrative authority of a notice of cancellation of the bond, the Surety shall place funds in the amount guaranteed for the facility into the standby trust fund as directed by the administrative authority.

The Surety hereby waives notification of amendments to closure plans, permit, applicable laws, statutes, rules, and regulations, and agrees that no such amendment shall in any way alleviate its obligation on this bond.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety hereunder exceed the amount of the penal sum.

The Surety may cancel the bond by sending notice of cancellation by certified mail to the Principal and to the administrative authority. Cancellation shall not occur before 120 days have lapsed beginning on the date that both the Principal and the administrative authority received the notice of cancellation, as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety and to the administrative authority, provided, however, that no such notice shall become effective until the Surety receives written authorization for termination of the bond by the administrative authority.

Principal and Surety hereby agree to adjust the penal sum of the bond yearly in accordance with LAC 33:VII.1303 and the conditions of the solid waste facility permit so that it guarantees a new closure and/or post-closure amount, provided that the penal sum does not increase or decrease without the written permission of the administrative authority.

The Principal and Surety hereby agree that no portion of the penal sum may be expended without prior written approval of the administrative authority.

IN WITNESS WHEREOF, the Principal and the Surety have executed this PERFORMANCE BOND and have affixed their seals on the date set forth above.

Those persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety, that each Surety hereto is authorized to do business in the state of Louisiana and that the wording of this surety bond is identical to the wording specified in LAC 33:VII.1399.Appendix F, effective on the date this bond was executed.

PRINCIPAL
[Signature(s)]
[Name(s)]
[Title(s)]
[Corporate seal]

CORPORATE SURETY
[Name and address]
State of incorporation: _____
Liability limit: \$ _____
[Signature(s)]
[Name(s) and title(s)]
[Corporate seal]
[For every cosurety, provide signature(s), corporate seal, and other information in the same manner as for Surety above.]
Bond premium: \$ _____

G. Appendix G

SOLID WASTE FACILITY IRREVOCABLE LETTER OF CREDIT (For Closure and/or Post-Closure Care)

Secretary
Louisiana Department of Environmental Quality
Post Office Box 4313
Baton Rouge, Louisiana 70821-4313
Attention: Office of Environmental Services,
Waste Permits Division

RE: [Facility name, agency interest number, and permit number]

Dear Sir:

We hereby establish our Irrevocable Standby Letter of Credit No. [number] in favor of the Department of Environmental Quality of the state of Louisiana at the request and for the account of [permit holder's or applicant's name and address] for the [closure and/or post-closure] fund for its [list facility name, site name, agency interest number, site identification number, facility permit number] at [location], Louisiana, for any sum or sums up to the aggregate amount of U.S. dollars \$[amount] upon presentation of:

1. A sight draft, bearing reference to the Letter of Credit No. [number] drawn by the administrative authority, together with;

2. A statement, signed by the administrative authority, declaring that the amount of the draft is payable into the standby trust fund pursuant to the Louisiana Environmental Quality Act, R.S. 30:2001, et seq.

The Letter of Credit is effective as of [date] and will expire on [date], but such expiration date will be automatically extended for a period of at least one year on the above expiration date [date] and on each successive expiration date thereafter, unless, at least 120 days before the then-current expiration date, we notify both the administrative authority and [name of permit holder or applicant] by certified mail that we have decided not to extend this Letter of Credit beyond the then-current expiration date. In the event that we give such notification, any unused portion of this Letter of Credit shall be available upon presentation of your sight draft for 120 days after the date of receipt by both the Department of Environmental Quality and [name of permit holder or applicant] as shown on the signed return receipts.

Whenever this Letter of Credit is drawn under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us, and we shall deposit the amount of the draft directly into the standby trust fund of [name of permit holder or applicant] in accordance with the administrative authority's instructions.

Except to the extent otherwise expressly agreed to, the [insert "the most recent edition of the Uniform Customs and Practice for Documentary Credits, published and copyrighted by the International Chamber of Commerce," or "the Uniform Commercial Code"], shall apply to this Letter of Credit.

We certify that the wording of this Letter of Credit is identical to the wording specified in LAC 33:VII.1399. Appendix G, effective on the date shown immediately below.

[Signature(s) and title(s) of official(s) of issuing institution(s)]
[Date]

H. Appendix H

SOLID WASTE FACILITY CERTIFICATE OF INSURANCE FOR CLOSURE AND/OR POST-CLOSURE CARE

[Facility name, agency interest number, and permit number]
Name and Address of Insurer: _____
(hereinafter called the "Insurer")
Name and Address of Insured: _____
(hereinafter called the "Insured") (Note: Insured must be the permit holder or applicant)
Facilities covered: [list the facility name, site name, agency interest number, site identification number, facility permit number, facility address, and amount of insurance for closure and/or post-closure care] (These amounts for all facilities must total the face amount shown below.)
Face Amount: _____
Policy Number: _____
Effective Date: _____

The Insurer hereby certifies that it has issued to the Insured the policy of insurance identified above to provide financial assurance for [insert "closure and/or post-closure care"] for the facilities identified above. The Insurer further warrants that such policy conforms in all respects to the requirements of LAC 33:VII.1303, as applicable, and as such regulations were constituted on the date shown immediately below. It is agreed that any provision of the policy inconsistent with such regulations is hereby amended to eliminate such inconsistency.

Whenever requested by the administrative authority, the Insurer agrees to furnish to the administrative authority a duplicate original of the policy listed above, including all endorsements thereon.

I hereby certify that the Insurer is admitted, authorized, or eligible to conduct insurance business in the state of Louisiana and that the wording of this certificate is identical to the wording specified in LAC 33:VII.1399. Appendix H, effective on the date shown immediately below.

[Authorized signature of Insurer]
[Name of person signing]
[Title of person signing]
Signature of witness or notary: _____
[Date]

I. Appendix I

SOLID WASTE FACILITY LETTER FROM THE CHIEF FINANCIAL OFFICER (Liability Coverage, Closure, and/or Post-Closure)

Secretary
Louisiana Department of Environmental Quality
Post Office Box 4313
Baton Rouge, Louisiana 70821-4313
Attention: Office of Environmental Services,
Waste Permits Division

RE: [Facility name, agency interest number, and permit number]

Dear Sir:

I am the chief financial officer of [name and address of firm, which may be the permit holder, applicant, or parent corporation of the permit holder or applicant]. This letter is in support of this firm's use of the financial test to demonstrate financial responsibility for [insert "liability coverage," "closure," and/or "post-closure," as applicable] as specified in [insert "LAC 33:VII.1301," "LAC 33:VII.1303," or "LAC 33:VII.1301 and 1303"].

[Fill out the following four paragraphs regarding facilities and associated liability coverage, and closure and post-closure cost estimates. If your firm does not have facilities that belong in a particular paragraph, write "None" in the space indicated. For each facility, list the facility name, site name, agency interest number, site identification number, and facility permit number.]

1. The firm identified above is the [insert "permit holder," "applicant for a standard permit," or "parent corporation of the permit holder or applicant for a standard permit"] of the following facilities, whether in Louisiana or not, for which liability coverage is guaranteed and demonstrated through a financial test similar to that specified in LAC 33:VII.1301. The amount of annual aggregate liability coverage covered by the test is shown for each facility:

2. The firm identified above is the [insert "permit holder," "applicant for a standard permit," or "parent corporation of the permit holder or applicant for a standard permit"] of the following facilities, whether in Louisiana or not, for which financial assurance for [insert "closure," "post-closure," or "closure and post-closure"] is guaranteed and demonstrated through a financial test similar to that specified in LAC 33:VII.1303 or other forms of self-insurance. The current [insert "closure," "post-closure," or "closure and post-closure"] cost estimates covered by the test are shown for each facility:

3. This firm guarantees through a corporate guarantee similar to that specified in [insert "LAC 33:VII.1303," or "LAC 33:VII.1301 and 1303"], for [insert "liability coverage," "closure care," "post-closure care," or "closure and post-closure care"] of the following facilities, whether in Louisiana or not, of which [insert the name of the permit holder or applicant] are/is a subsidiary of this firm. The amount of annual aggregate liability coverage covered by the guarantee for each facility and/or the current cost estimates for the closure and/or post-closure care so guaranteed is shown for each facility:

4. This firm is the owner or operator of the following facilities, whether in Louisiana or not, for which financial assurance for liability coverage, closure and/or post-closure care is not demonstrated either to the U.S. Environmental Protection Agency or to a state through a financial test or any other financial assurance mechanism similar to those specified in LAC 33:VII.1301 and/or 1303. The current closure and/or post-closure cost estimates not covered by such financial assurance are shown for each facility.

This firm [insert "is required" or "is not required"] to file a Form 10K with the Securities and Exchange Commission (SEC) for the latest fiscal year.

The fiscal year of this firm ends on [month, day]. The figures for the following items marked with an asterisk are derived from this firm's independently audited, year-end financial statements for the latest completed year, ended [date].

[Fill in Part A if you are using the financial test to demonstrate coverage only for the liability requirements.]

Part A. Liability Coverage for Accidental Occurrences

[Fill in Alternative I if the criteria of LAC 33:VII.1303.H.1.a are used.]

| Alternative I | | |
|---|-----|----|
| ¹ 1. Amount of annual aggregate liability coverage to be demonstrated | \$ | |
| *2. Current assets | \$ | |
| *3. Current liabilities | \$ | |
| *4. Tangible net worth | \$ | |
| *5. If less than 90 percent of assets are located in the U.S., give total U.S. assets | \$ | |
| | YES | NO |
| 6. Is line 4 at least \$10 million? | | |
| 7. Is line 4 at least 6 times line 1? | | |
| *8. Are at least 90 percent of assets located in the U.S.? If not, complete line 9. | | |
| 9. Is line 4 at least 6 times line 1? | | |

[Fill in Alternative II if the criteria of LAC 33:VII.1303.H.1.b are used.]

| Alternative II | | |
|--|-----|----|
| ¹ 1. Amount of annual aggregate liability coverage to be demonstrated | \$ | |
| 2. Current bond rating of most recent issuance of this firm and name of rating service | | |
| 3. Date of issuance of bond | | |
| 4. Date of maturity of bond | | |
| *5. Tangible net worth | \$ | |
| *6. Total assets in U.S. (required only if less than 90 percent of assets are located in the U.S.) | \$ | |
| | YES | NO |
| 7. Is line 5 at least \$10 million? | | |
| 8. Is line 5 at least 6 times line 1? | | |
| *9. Are at least 90 percent of assets located in the U.S.? If not, complete line 10. | | |
| 10. Is line 6 at least 6 times line 1? | | |

[Fill in Part B if you are using the financial test to demonstrate assurance only for closure and/or post-closure care.]

Part B. Closure and/or Post-Closure

[Fill in Alternative I if the criteria of LAC 33:VII.1303.H.1.a are used.]

| Alternative I | | |
|---|-----|----|
| 1. Sum of current closure and/or post-closure estimate (total all cost estimates shown above) | \$ | |
| *2. Tangible net worth | \$ | |
| *3. Net worth | \$ | |
| *4. Current Assets | \$ | |
| *5. Current liabilities | \$ | |
| *6. The sum of net income plus depreciation, depletion, and amortization | \$ | |
| *7. Total assets in U.S. (required only if less than 90 percent of firm's assets are located in the U.S.) | \$ | |
| | YES | NO |
| 8. Is line 2 at least \$10 million? | | |
| 9. Is line 2 at least 6 times line 1? | | |
| *10. Are at least 90 percent of the firm's assets located in the U.S.? If not, complete line 11. | | |
| 11. Is line 7 at least 6 times line 1? | | |

[Fill in Alternative II if the criteria of LAC 33:VII.1303.H.1.b are used.]

| Alternative II | | |
|--|-----|----|
| 1. Sum of current closure and post-closure cost estimates (total of all cost estimates shown above) | \$ | |
| 2. Current bond rating of most recent issuance of this firm and name of rating service | | |
| 3. Date of issuance of bond | | |
| 4. Date of maturity of bond | | |
| *5. Tangible net worth (If any portion of the closure and/or post-closure cost estimate is included in "total liabilities" on your firm's financial statement, you may add the amount of that portion to this line.) | \$ | |
| *6. Total assets in U.S. (required only if less than 90 percent of the firm's assets are located in the U.S.) | \$ | |
| | YES | NO |
| 7. Is line 5 at least \$10 million? | | |
| 8. Is line 5 at least 6 times line 1? | | |
| 9. Are at least 90 percent of the firm's assets located in the U.S.? If not, complete line 10. | | |
| 10. Is line 6 at least 6 times line 1? | | |

[Fill in Part C if you are using the financial test to demonstrate assurance for liability coverage, closure, and/or post-closure care.]

Part C. Liability Coverage, Closure, and/or Post-Closure

[Fill in Alternative I if the criteria of LAC 33:VII.1303.H.1.a are used.]

| Alternative I | | |
|---|-----|----|
| 1. Sum of current closure and/or post-closure cost estimates (total of all cost estimates listed above) | \$ | |
| ¹ 2. Amount of annual aggregate liability coverage to be demonstrated | \$ | |
| 3. Sum of lines 1 and 2 | \$ | |
| *4. Total liabilities (If any portion of your closure and/or post-closure cost estimates is included in your "total liabilities" in your firm's financial statements, you may deduct that portion from this line and add that amount to lines 5 and 6.) | \$ | |
| *5. Tangible net worth | \$ | |
| *6. Net worth | \$ | |
| *7. Current assets | \$ | |
| *8. Current liabilities | \$ | |
| *9. The sum of net income plus depreciation, depletion, and amortization | \$ | |
| *10. Total assets in the U.S. (required only if less than 90 percent of assets are located in the U.S.) | \$ | |
| | YES | NO |
| 11. Is line 5 at least \$10 million? | | |
| 12. Is line 5 at least 6 times line 3? | | |
| *13. Are at least 90 percent of assets located in the U.S.? If not, complete line 14. | | |
| 14. Is line 10 at least 6 times line 3? | | |

[Fill in Alternative II if the criteria of LAC 33:VII.1303.H.1.b are used.]

| Alternative II | | |
|---|----|--|
| 1. Sum of current closure and/or post-closure cost estimates (total of all cost estimates listed above) | \$ | |
| ¹ 2. Amount of annual aggregate liability coverage to be demonstrated | \$ | |
| 3. Sum of lines 1 and 2 | \$ | |
| 4. Current bond rating of most recent issuance of this firm and name of rating service | | |
| 5. Date of issuance of bond | | |
| 6. Date of maturity of bond | | |

| Alternative II | | |
|--|-----|-----|
| *7. Tangible net worth (If any portion of the closure and/or post-closure cost estimates is included in the "total liabilities" in your firm's financial statements, you may add that portion to this line.) | \$ | |
| *8. Total assets in U.S. (required only if less than 90 percent of assets are located in the U.S.) | \$ | |
| | YES | NO |
| 9. Is line 7 at least \$10 million? | | |
| 10. Is line 7 at least 6 times line 3? | | |
| *11. Are at least 90 percent of assets located in the U.S.? If not, complete line 12. | ___ | ___ |
| 12. Is line 8 at least 6 times line 3? | ___ | ___ |

¹Indicate total amount of annual aggregate liability coverage for all covered facilities.

(The following is to be completed by all firms providing the financial test.)

I hereby certify that the wording of this letter is identical to the wording specified in LAC 33:VII.1399.Appendix I.

[Signature of Chief Financial Officer for the Firm]

[Typed Name of Chief Financial Officer]

[Title]

[Date]

J. Appendix J

SOLID WASTE FACILITY CORPORATE GUARANTEE FOR LIABILITY COVERAGE, CLOSURE, AND/OR POST-CLOSURE CARE

[Facility name, agency interest number, and permit number]

Guarantee made this [date] by [name of guaranteeing entity], a business corporation organized under the laws of the state of [insert name of state], hereinafter referred to as guarantor, to the Louisiana Department of Environmental Quality, obligee, on behalf of our subsidiary [insert the name of the permit holder or applicant] of [business address].

Recitals

1. The guarantor meets or exceeds the financial test criteria and agrees to comply with the reporting requirements for guarantors as specified in LAC 33:VII.1303.H.9.

2. [Subsidiary] is the [insert "permit holder," or "applicant for a permit"] hereinafter referred to as [insert "permit holder" or "applicant"] for the following facility covered by this guarantee: [List the facility name, site name, agency interest number, site identification number, and facility permit number. Indicate for each facility whether guarantee is for liability coverage, closure, and/or post-closure and the amount of annual aggregate liability coverage, closure, and/or post-closure costs covered by the guarantee.]

[Fill in Paragraphs 3 and 4 below if the guarantee is for closure and/or post-closure.]

3. *Closure plans*, as used below, refers to the plans maintained as required by LAC 33:Part VII, for the closure and/or post-closure care of the facility identified in Paragraph 2 above.

4. For value received from [insert "permit holder" or "applicant"], guarantor guarantees to the Louisiana Department of Environmental Quality that in the event that [insert "permit holder" or "applicant"] fails to perform [insert "closure," "post-closure care," or "closure and post-closure care"] of the above facility in accordance with the closure plan and other permit requirements whenever required to do so, the guarantor shall do so or shall establish a trust fund as specified in LAC 33:VII.1303.C, as applicable, in the name of [insert "permit holder" or "applicant"] in the amount of the current closure and/or post-closure estimates, as specified in LAC 33:VII.1303.

[Fill in Paragraph 5 below if the guarantee is for liability coverage.]

5. For value received from [insert "permit holder" or "applicant"], guarantor guarantees to any and all third parties who have sustained or may sustain bodily injury or property damage caused by sudden and accidental occurrences arising from operations of the facility covered by this guarantee that in the event that [insert "permit holder" or "applicant"] fails to

satisfy a judgment or award based on a determination of liability for bodily injury or property damage to third parties caused by sudden and accidental occurrences arising from the operation of the above-named facilities, or fails to pay an amount agreed to in settlement of a claim arising from or alleged to arise from such injury or damage, the guarantor will satisfy such judgment(s), award(s), or settlement agreement(s) up to the coverage limits identified above.

6. The guarantor agrees that if, at the end of any fiscal year before termination of this guarantee, the guarantor fails to meet the financial test criteria, guarantor shall send within 90 days, by certified mail, notice to the administrative authority and to [insert "permit holder" or "applicant"] that he intends to provide alternative financial assurance as specified in [insert "LAC 33:VII.1301" and/or "LAC 33:VII.1303"], as applicable, in the name of the [insert "permit holder" or "applicant"], within 120 days after the end of such fiscal year, the guarantor shall establish such financial assurance unless [insert "permit holder" or "applicant"] has done so.

7. The guarantor agrees to notify the administrative authority, by certified mail, of a voluntary or involuntary proceeding under Title 11 (bankruptcy), U.S. Code, naming guarantor as debtor, within 10 days after commencement of the proceeding.

8. The guarantor agrees that within 30 days after being notified by the administrative authority of a determination that guarantor no longer meets the financial test criteria or that he is disallowed from continuing as a guarantor of [insert "liability coverage" or "closure and/or post-closure care"] he shall establish alternate financial assurance as specified in [insert "LAC 33:VII.1301" and/or "LAC 33:VII.1303"], as applicable, in the name of [insert "permit holder" or "applicant"], unless [insert "permit holder" or "applicant"] has done so.

9. The guarantor agrees to remain bound under this guarantee notwithstanding any or all of the following: [if the guarantee is for closure and post-closure insert "amendment or modification of the closure and/or post-closure care, the extension or reduction of the time of performance of closure and/or post-closure"] or any other modification or alteration of an obligation of the [insert "permit holder" or "applicant"] pursuant to LAC 33:Part VII.

10. The guarantor agrees to remain bound under this guarantee for as long as the [insert "permit holder" or "applicant"] must comply with the applicable financial assurance requirements of [insert "LAC 33:VII.1301" and/or "LAC 33:VII.1303"] for the above-listed facility, except that guarantor may cancel this guarantee by sending notice by certified mail, to the administrative authority and to the [insert "permit holder" or "applicant"], such cancellation to become effective no earlier than 90 days after receipt of such notice by both the administrative authority and the [insert "permit holder" or "applicant"], as evidenced by the return receipts.

11. The guarantor agrees that if the [insert "permit holder" or "applicant"] fails to provide alternative financial assurance as specified in [insert "LAC 33:VII.1301" and/or "LAC 33:VII.1303"], as applicable, and obtain written approval of such assurance from the administrative authority within 60 days after a notice of cancellation by the guarantor is received by the administrative authority from guarantor, guarantor shall provide such alternate financial assurance in the name of the [insert "permit holder" or "applicant"].

12. The guarantor expressly waives notice of acceptance of this guarantee by the administrative authority or by the [insert "permit holder" or "applicant"]. Guarantor expressly waives notice of amendments or modifications of the closure and/or post-closure plan and of amendments or modifications of the facility permit(s).

I hereby certify that the wording of this guarantee is identical to the wording specified in LAC 33:VII.1399.Appendix J, effective on the date first above written.

Effective date: _____

[Name of Guarantor]

[Authorized signature for guarantor]

[Typed name and title of person signing]

Thus sworn and signed before me this [date].

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1098 (June 2007).

Chapter 14. Statewide Beautification **[Formerly Chapter 13]**

NOTE: The name of the Litter and Waste Reduction Section has been updated to the Recycling and Litter Abatement Section.

§1401. Purpose

[Formerly §1301]

A. It is declared to be the purpose of these rules and regulations to:

1. control and reduce litter; and
2. create a statewide beautification program to enhance the tourist, recreational, and economic development of the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2521 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:2610 (November 2000), repromulgated by the Office of the Secretary, Legal Affairs Division, LR 33:1107 (June 2007).

§1403. Definitions

[Formerly §1303]

A. The following words, terms, and phrases, when used in conjunction with LAC 33:VII.Subpart 1, shall have the meanings ascribed to them in this Chapter, except where the context clearly indicates a different meaning.

Commission—the Louisiana Litter Reduction and Public Action Commission.

Dump—to throw, discard, place, deposit, discharge, burn, dump, drop, eject, or allow the escape of a substance.

Litter—all waste material, except as provided and defined in R.S. 30:2173(2), including but not limited to, disposable packages, containers, sand, gravel, rubbish, cans, bottles, refuse, garbage, trash, debris, dead animals, furniture or appliances, automotive parts including, but not limited to, tires and engines, trailers, boats and boating accessories, tools and equipment, and building materials, or other discarded materials of any kind and description. *Litter* shall not include agricultural products that are being transported from the harvest or collection site to a processing or market site if reasonable measures are taken to prevent the agricultural product from leaving the transporting vehicle. *Litter* shall also not include recyclable cardboard being transported in compressed bundles to processing facilities. *Agricultural product*, as used in this definition, means all crops, livestock, poultry, and forestry; and all aquacultural, floracultural, horticultural, silvicultural, and viticultural products.

Local Governing Authority—the governing authority of the parish or the governing authority of the municipality in which the littering offense was committed.

Public or Private Property—the right-of-way of any road or highway, levee, any body of water or watercourse or the shores or beaches thereof, any park, playground, building, refuge, or conservation or recreation area, and residential or farm properties, timberland, or forests.

Section—the Recycling and Litter Abatement Section located within and acting through the Office of Environmental Services of the Department of Environmental Quality.

AUTHORITY NOTE: Promulgated in accordance with R. S. 30:2522 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:2610 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2501 (October 2005), repromulgated LR 33:1107 (June 2007).

§1405. Louisiana Litter Abatement Program **[Formerly §1305]**

A. The purpose of the Louisiana Litter Abatement Program shall be to support the community-based litter abatement programs.

B. Program Award

1. Program awards shall be made available to local governments and nonprofit organizations.

2. Funding through the program shall be subject to the availability of funds.

3. All requests for awards shall be made in writing on a form provided by the department to the Recycling and Litter Abatement Section of the Office of Environmental Services.

4. The monies awarded through the award shall be used to further the administration and execution of the Keep Louisiana Beautiful Program. Allowable uses of award funding shall include, but not be limited to:

- a. Keep America Beautiful fees;
- b. Keep America Beautiful precertification training, education curriculums, and workshops;
- c. law enforcement seminars;
- d. litter surveys;
- e. projects, services, activities, and operational costs of litter abatement programs;
- f. materials and services for program development and training;
- g. direct expenditures for materials that can facilitate litter reduction, recycling, waste reduction, reuse, and general solid waste management programs;
- h. minimal advertising, public relations, and promotional materials necessary for publicity and promotion of program activities; and
- i. the salary of the program coordinator.

5. Each successful applicant shall supplement award funds with a 25 percent match from other sources. All matching funds must be available to the program after the date of the program award, and funds spent prior to the program award shall not be considered eligible in fulfilling the match requirement.

6. Awards shall be awarded based on a comparative basis as determined by the Recycling and Litter Abatement Section of the Office of Environmental Services.

AUTHORITY NOTE: Promulgated in accordance with R. S. 30:2524 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:2610 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2502 (October 2005), repromulgated LR 33:1107 (June 2007).

Chapter 15. Solid Waste Fees
[Formerly Chapter 5.Subchapter D]

§1501. Standard Permit Application Review Fee
[Formerly §525]

A. Applicants for Type I, I-A, II, and II-A standard permits shall pay a \$3,300 permit application review fee for each facility. The fee shall accompany each permit application submitted.

B. Applicants for Type III standard permits or beneficial-use permits shall pay a permit application review fee of \$660 for each facility. The fee shall accompany each permit application submitted.

C. Permit holders providing permit modifications for Type I, I-A, II, and II-A facilities shall pay a \$1,320 permit-modification review fee. The fee shall accompany each modification submitted. Permit holders providing mandatory modifications in response to these regulations shall pay a \$660 permit-modification fee. The fee shall accompany each mandatory modification submitted. Permit modifications required by LAC 33:VII.805.A will not be subject to a permit modification fee.

D. Permit holders providing permit modifications for Type III facilities or beneficial use facilities shall pay a \$330 permit-modification review fee. The fee shall accompany each modification submitted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:688 (May 2003), LR 29:2051 (October 2003), repromulgated by the Office of the Secretary, Legal Affairs Division, LR 33:1108 (June 2007).

§1503. Closure Plan Review Fee
[Formerly §527]

A. Applicants for Type I, I-A, II, and II-A closures shall pay a \$1,320 closure-plan review fee. The fee shall accompany each closure plan submitted.

B. Applicants for Type III or beneficial-use facilities closures shall pay a \$330 closure-plan review fee. The fee shall accompany each closure plan submitted.

C. Permit holders providing closure-plan modifications for Type I, I-A, II, and II-A facilities shall pay a \$660 closure-plan modification review fee. The fee shall accompany each modification submitted.

D. Permit holders providing closure-plan modifications for Type III or beneficial-use facilities shall pay a \$165 closure-plan modification review fee. The fee shall accompany each modification submitted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:688 (May 2003), LR 29:2051 (October 2003), repromulgated by the Office of the Secretary, Legal Affairs Division, LR 33:1108 (June 2007).

§1505. Annual Monitoring and Maintenance Fee
[Formerly §529]

A. An initial fee is charged for the processing of transporter notifications.

1. The fee shall be calculated by the following formula.

$$\text{Initial fee per notification} + \text{Fee based on each vehicle owned by the transporter} = \text{Notification fee}$$

2. No fee is assessed for modifying an existing notification form. The fee shall accompany the notification form at the time of its filing.

| | |
|-----------------|-------|
| Initial fee | \$132 |
| Fee Per Vehicle | \$33 |

B. All holders of permits for solid waste processing and/or disposal facilities that have not completed closure, including post-closure activities, in accordance with an approved plan, shall be charged an annual monitoring and maintenance fee for each permit. This annual monitoring and maintenance fee shall be calculated by the following formula.

$$\text{Base fee per permit} + \text{Fee based on tonnage} = \text{Annual monitoring and maintenance fee}$$

1. Base fees are as follows:

- a. \$7,920 for Type I facilities (including facilities that handle both industrial and non-industrial waste);
- b. \$1,980 for Type II facilities; and
- c. \$660 for Type I-A, II-A, III, and beneficial-use facilities.

2. Tonnage fees will be based on the wet-weight tonnage, as reported in the previous year's disposer annual report, and are calculated as follows:

- a. for industrial wastes (Type I facilities, except surface impoundments), \$0.79/ton;
- b. for non-industrial wastes (Type II facilities, except surface impoundments), \$0.20/ton for amounts exceeding 75,000 tons;
- c. for construction or demolition debris deposited at permitted construction or demolition debris facilities (Type III facilities), \$0.20/ton; and the fee is only applicable to construction or demolition debris that is subject to a fee imposed by the facility;
- d. for surface impoundments, no tonnage fee;
- e. for publicly operated facilities that treat domestic sewage sludge, no tonnage fee; and
- f. for Type I-A, II-A, III (except construction or demolition debris disposal facilities), and beneficial-use facilities, no tonnage fee.

3. The maximum annual monitoring and maintenance fee per facility for Type I facilities (including facilities that handle both industrial and non-industrial solid wastes) is \$105,600. The maximum fee per facility for Type II facilities is \$26,400. Surface impoundments, as noted above, are assessed only the base fee.

C. The annual monitoring and maintenance period shall be from July 1 through June 30, commencing upon promulgation of these regulations and terminating upon completion of closure or post-closure activities for the facility in accordance with the permit of the administrative authority. The annual monitoring and maintenance fee for facilities during post-closure shall be 25 percent of the applicable base fee in Paragraph B.1 of this Section.

D. Fee payment shall be made by check, draft, or money order payable to the Department of Environmental Quality and mailed to the department at the address provided on the invoice.

E. Late Payment Fee. Payments not received within 15 days of the due date will be charged a late payment fee. Any late payment fee shall be calculated from the due date indicated on the invoice.

1. Payments not received by the department by the fifteenth day from the due date will be assessed a five percent late payment fee on the original assessed fee.

2. Payments not received by the department by the thirtieth day from the due date will be assessed an additional five percent late payment fee on the original assessed fee.

3. Payments not received by the department by the sixtieth day from the due date will be assessed an additional five percent late payment fee on the original assessed fee.

F. Failure to pay the prescribed application fee or annual fee as provided herein, within 90 days after the due date, will constitute a violation of these regulations and shall subject the person to applicable enforcement actions under the Act including, but not limited to, revocation or suspension of the applicable permit, license, registration, or variance.

G. The annual fees prescribed herein shall be effective retroactive for the state fiscal year in which these fee regulations are published in the *Louisiana Register* as adopted and each state fiscal year thereafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:18 (January 1996), LR 25:427 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:689 (May 2003), LR 29:2051 (October 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 32:2249 (December 2006), repromulgated LR 33:1108 (June 2007).

Chapter 30. Appendices

§3001. Public Notice Example—Appendix A

A. The following is an example of a public notice to be placed in the local newspaper for intention to submit a permit application to the Office of Environmental Services, Waste Permits Division, for existing/proposed solid waste facilities.

PUBLIC NOTICE
OF
INTENT TO SUBMIT PERMIT APPLICATION

[NAME OF APPLICANT/FACILITY]

FACILITY [location], PARISH [location], LOUISIANA

Notice is hereby given that [name of applicant] does intend to submit to the Department of Environmental Quality, Office of Environmental Services, Waste Permits Division, an application for a permit to operate a [type of solid waste facility] in [parish name], Range__, Township__, Section__, which is approximately [identify the physical location of the site by direction and distance from the nearest town].

Comments concerning the facility may be filed with the secretary of the Louisiana Department of Environmental Quality at the following address:

Louisiana Department of Environmental Quality
Office of Environmental Services
Waste Permits Division
Post Office Box 4313
Baton Rouge, Louisiana 70821-4313

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2536 (November 2000), amended by the Office of Environmental Assessment, LR 30:2027 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2502 (October 2005), LR 33:1109 (June 2007).

§3003. Appendix B

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), repealed by the Office of the Secretary, Legal Affairs Division, LR 33:1109 (June 2007).

§3005. Groundwater Sampling and Analysis

Plan—Appendix C

Groundwater Sampling and Analysis Plan

A. All wells must be measured for total depth and depth to water on the same day and immediately prior to purging. Measurements must be to the nearest 0.01 foot, and the values must be recorded in the field notebook. If 10 percent of the screened interval is blocked by sediments, the well must be redeveloped prior to the next required sampling event. Wells with dedicated sampling devices that preclude total-depth measurement must be measured annually.

B. Each well must be purged by evacuation to dryness or by removing a minimum of three casing volumes. The well must be sampled immediately upon purging and/or when sufficient water for sampling has recharged the well. Purging and sampling methods must be consistent throughout the life of the facility. Samples shall not be field filtered prior to laboratory analysis.

C. Samples must be withdrawn using dedicated or adequately cleaned equipment for each well. No equipment or method may be used that will chemically alter or influence the sample. Sampling devices, other than bailers, must be approved by the administrative authority prior to use in monitoring programs. Care must be taken to avoid placing clean sampling equipment on the ground or on any contaminated surface. Sampling methods and equipment must be compatible throughout the life of the facility.

D. Sample preservation, handling, and analysis shall meet the specifications of SW-846, or an equivalent substitute as approved by the administrative authority. Parameters, containers, preservation methods, and analytical limits are listed in Tables 1 and 2.

E. Analytical methods with the equivalency to SW-846, or analytical methods for parameters not listed in SW-846, shall be approved by the administrative authority prior to implementation.

F. A chain of custody shall be employed that will allow for the possession and handling of samples to be traced from the time of collection through laboratory analysis. All sample containers shall be labeled to prevent misidentification, have proper seals, and indicate the test parameters required.

G. At the site, an up-to-date field logbook shall be kept, which documents for each sample the well identification number, total well depth, elevation of top of casing, water level, water color, well-evacuation procedures and equipment, date, time, sample identification numbers, field measurements (pH, specific conductance, etc.) and methods, name of collector, field observations, calculations of the standing-water volume in the well, and the total volume evacuated.

| Table 1 | | |
|--|--------------------------|---------------------|
| Detection Monitoring Parameters ¹ | | |
| | Common Name ² | CAS RN ³ |
| (1) | Antimony | (Total) |
| (2) | Arsenic | (Total) |
| (3) | Barium | (Total) |
| (4) | Beryllium | (Total) |
| (5) | Cadmium | (Total) |
| (6) | Chromium | (Total) |
| (7) | Cobalt | (Total) |
| (8) | Copper | (Total) |
| (9) | Lead | (Total) |
| (10) | Nickel | (Total) |
| (11) | Selenium | (Total) |

| Table 1 | | |
|--|---|---------------------|
| Detection Monitoring Parameters ¹ | | |
| Common Name ² | | CAS RN ³ |
| (12) | Silver | (Total) |
| (13) | Thallium | (Total) |
| (14) | Vanadium | (Total) |
| (15) | Zinc | (Total) |
| Organic Constituents: | | |
| (16) | Acetone | 67-64-1 |
| (17) | Acrylonitrile | 107-13-1 |
| (18) | Benzene | 71-43-2 |
| (19) | Bromochloromethane | 74-97-5 |
| (20) | Bromodichloromethane | 75-27-4 |
| (21) | Bromoform; Tribromomethane | 75-25-2 |
| (22) | Carbon disulfide | 75-15-0 |
| (23) | Carbon tetrachloride | 56-23-5 |
| (24) | Chlorobenzene | 108-90-7 |
| (25) | Chloroethane; Ethyl chloride | 75-00-3 |
| (26) | Chloroform; Trichloromethane | 67-66-3 |
| (27) | Dibromochloromethane; Chlorodibromomethane | 124-48-1 |
| (28) | 1,2-Dibromo-3-chloropropane; DBCP | 96-12-8 |
| (29) | 1,2-Dibromoethane; Ethylene dibromide; EDB | 106-93-4 |
| (30) | o-Dichlorobenzene; 1,2-Dichlorobenzene | 95-50-1 |
| (31) | p-Dichlorobenzene; 1,4-Dichlorobenzene | 106-46-7 |
| (32) | trans-1,4-Dichloro-2-butene | 110-57-6 |
| (33) | 1,1-Dichloroethane; Ethylidene chloride | 75-34-3 |
| (34) | 1,2-Dichloroethane; Ethylene dichloride | 107-06-2 |
| (35) | 1,1-Dichloroethylene; 1,1-Dichloroethene; Vinylidene chloride | 75-35-4 |
| (36) | cis-1,2-Dichloroethylene; cis-1,2-Dichloroethene | 156-59-2 |
| (37) | trans-1,2-Dichloroethylene; trans-1,2-Dichloroethene | 156-60-5 |
| (38) | 1,2-Dichloropropane; Propylene dichloride | 78-87-5 |
| (39) | cis-1,3-Dichloropropene | 10061-01-5 |
| (40) | trans-1,3-Dichloropropene | 10061-02-6 |

| Table 1 | | |
|--|---|---------------------|
| Detection Monitoring Parameters ¹ | | |
| Common Name ² | | CAS RN ³ |
| (41) | Ethylbenzene | 100-41-4 |
| (42) | 2-Hexanone; Methyl butyl ketone | 591-78-6 |
| (43) | Methyl bromide; Bromomethane | 74-83-9 |
| (44) | Methyl chloride; Chloromethane | 74-87-3 |
| (45) | Methylene bromide; Dibromomethane | 74-95-3 |
| (46) | Methylene chloride; Dichloromethane | 75-09-2 |
| (47) | Methyl ethyl ketone; MEK; 2-Butanone | 78-93-3 |
| (48) | Methyl iodide; Iodomethane | 74-88-4 |
| (49) | 4-Methyl-2-pentanone; Methyl isobutyl ketone | 108-10-1 |
| (50) | Styrene | 100-42-5 |
| (51) | 1,1,1,2-Tetrachloroethane | 630-20-6 |
| (52) | 1,1,2,2-Tetrachloroethane | 79-34-5 |
| (53) | Tetrachloroethylene; Tetrachloroethene; Perchloroethylene | 127-18-4 |
| (54) | Toluene | 108-88-3 |
| (55) | 1,1,1-Trichloroethane; Methylchloroform | 71-55-6 |
| (56) | 1,1,2-Trichloroethane | 79-00-5 |
| (57) | Trichloroethylene; Trichloroethene | 79-01-6 |
| (58) | Trichlorofluoromethane; CFC-11 | 75-69-4 |
| (59) | 1,2,3-Trichloropropane | 96-18-4 |
| (60) | Vinyl acetate | 108-05-4 |
| (61) | Vinyl chloride | 75-01-4 |
| (62) | Xylenes | 1330-20-7 |

NOTES:

¹ This list contains 47 volatile organics for which possible analytical procedures provided in EPA Publication SW-846, *Test Methods for Evaluating Solid Wastes*, include Method 8260; and 15 metals for which SW-846 provides either Method 6010 or a method from the 7000 series of methods.

² Common names are those widely used in government regulations, scientific publications, and commerce; synonyms exist for many chemicals.

³ Chemical Abstracts Service registry number. Where "Total" is entered, all species in the groundwater that contain this element are included.

| Table 2 | | | | |
|---|---------------------|--|--------------------------------|-------------------------|
| Assessment Monitoring Parameters ¹ | | | | |
| Common Name ² | CAS RN ³ | Chemical Abstracts Service Index Name ⁴ | Suggested Methods ⁵ | PQL ⁶ (µg/L) |
| Acenaphthene | 83-32-9 | Acenaphthylene, 1,2-dihydro- | 8100 8270 | 200 10 |
| Acenaphthylene | 208-96-8 | Acenaphthylene | 8100 8270 | 200 10 |
| Acetone | 67-64-1 | 2-Propanone | 8260 | 100 |
| Acetonitrile; Methyl cyanide | 75-05-8 | Acetonitrile | 8015 | 100 |
| Acetophenone | 98-86-2 | Ethanone, 1-phenyl- | 8270 | 10 |
| 2-Acetylaminofluorene; 2-AAF | 53-96-3 | Acetamide, N-9H-fluoren-2-yl- | 8270 | 20 |
| Acrolein | 107-02-8 | 2-Propenal | 8030 8260 | 5 100 |
| Acrylonitrile | 107-13-1 | 2-Propenenitrile | 8030 8260 | 5 200 |
| Aldrin | 309-00-2 | 1,4:5,8-Dimethanonaphthalene; 1,2,3,4,10,10-hexachloro- 1,4,4a,5,8,8a,- hexahydro-(1α,4α,4aβ, 5α,8α,8aβ) | 8080 8270 | 0.05 10 |
| Allyl chloride | 107-05-1 | 1-Propene, 3-chloro- | 8010 8260 | 5 10 |
| 4-Amino-biphenyl | 92-67-1 | [1,1'-Biphenyl]-4-amine | 8270 | 20 |
| Anthracene | 120-12-7 | Anthracene | 8100 8270 | 200 10 |
| Antimony | (Total) | Antimony | 6010 7040 7041 | 300 2,000 30 |

| Table 2 | | | | |
|---|------------------------|--|--------------------------------|-------------------------|
| Assessment Monitoring Parameters ¹ | | | | |
| Common Name ² | CAS RN ³ | Chemical Abstracts Service Index Name ⁴ | Suggested Methods ⁵ | PQL ⁶ (µg/L) |
| Arsenic | (Total) | Arsenic | 6010 7060 7061 | 500 10 20 |
| Barium | (Total) | Barium | 6010 7080 | 20 1,000 |
| Benzene | 71-43-2 | Benzene | 8020 8021 8260 | 2 0.1 5 |
| Benzo[a]anthracene; 1,2-Benzanthracene | 56-55-3 | Benzo[a]anthracene | 8100 8270 | 200 10 |
| Benzo[b]fluoranthene | 205-99-2 | Benzo[e]acephenanthrylene | 8100 8270 | 200 10 |
| Benzo[k]fluoranthene | 207-08-9 | Benzo[k]fluoranthene | 8100 8270 | 200 10 |
| Benzo[ghi]perylene | 191-24-2 | Benzo[ghi]perylene | 8100 8270 | 200 10 |
| Benzo[a]pyrene | 50-32-8 | Benzo[a]pyrene | 8100 8270 | 200 10 |
| Benzyl alcohol | 100-51-6 | Benzenemethanol | 8270 | 20 |
| Beryllium | (Total) | Beryllium | 6010 7090 7091 | 3 50 2 |
| alpha-BHC | 319-84-6 | Cyclohexane, 1,2,3,4,5,6-hexachloro-(1 α ,2 α ,3 β ,4 α ,5 β ,6 β)- | 8080 8270 | 0.05 10 |
| beta-BHC | 319-85-7 | Cyclohexane, 1,2,3,4,5,6-hexachloro-(1 α ,2 β ,3 α ,4 β ,5 α ,6 β)- | 8080 8270 | 0.05 20 |
| delta-BHC | 319-86-8 | Cyclohexane, 1,2,3,4,5,6-hexachloro-(1 α ,2 α ,3 α ,4 β ,5 α ,6 β)- | 8080 8270 | 0.1 20 |
| gamma-BHC; Lindane | 58-89-9 | Cyclohexane, 1,2,3,4,5,6-hexachloro-(1 α ,2 α ,3 β ,4 α ,5 α ,6 β)- | 8080 8270 | 0.05 20 |
| Bis(2-chloroethoxy)methane | 111-91-1 | Ethane, 1,1'-[methylenebis(oxy)]bis[2-chloro- | 8110 8270 | 5 10 |
| Bis(2-chloroethyl)ether | 111-44-4 | Ethane, 1,1'-oxybis[2-chloro- | 8110 8270 | 3 10 |
| Bis(2-chloro-1-methylethyl) ether; 2,2'-Dichlorodiisopropyl ether | 108-60-1 See Note 7 | Propane, 2,2'-oxybis[1-chloro- | 8110 8270 | 10 10 |
| Bis(2-ethylhexyl) phthalate | 117-81-7 | 1,2-Benzene-dicarboxylic acid; bis(2-ethylhexyl) ester | 8060 | 20 |
| Bromochloromethane; Chlorobromomethane | 74-97-5 | Methane, bromochloro- | 8021 8260 | 0.1 5 |
| Bromodichloromethane | 75-27-4 | Methane, bromodichloro- | 8010 8021 8260 | 1 0.2 5 |
| Bromoform; Tribromomethane | 75-25-2 | Methane, tribromo- | 8010 8021 8260 | 2 15 5 |
| 4-Bromophenyl phenyl ether | 101-55-3 | Benzene, 1-bromo-4-phenoxy- | 8110 8270 | 25 10 |
| Butyl benzyl phthalate; Benzyl butyl phthalate | 85-68-7 | 1,2-Benzenedicarboxylic acid; butyl phenylmethyl ester | 8060 8270 | 5 10 |
| Cadmium | (Total) | Cadmium | 6010 7130 7131 | 40 50 1 |
| Carbon disulfide | 75-15-0 | Carbon disulfide | 8260 | 100 |
| Carbon tetrachloride | 56-23-5 | Methane, tetrachloro- | 8010 8021 8260 | 1 0.1 10 |
| Chlordane | 57-74-9 See Note 8 | 4,7-Methano-1H-indene, 1,2,4,5,6,7,8,8-octachloro-2,3,3a,4,7,7a- hexahydro- | 8080 8270 | 0.1 50 |
| p-Chloroaniline | 106-47-8 | Benzenamine, 4-chloro- | 8270 | 20 |
| Chlorobenzene | 108-90-7 | Benzene, chloro- | 8010 8020 8021 8260 | 2 2 0.1 5 |
| Chlorobenzilate | 510-15-6 | Benzeneacetic acid, 4-chloro- α -(4-chlorophenyl)- α -hydroxy-, ethyl ester | 8270 | 10 |
| p-Chloro-m-cresol | 59-50-7 | Phenol, 4-chloro-3-methyl- | 8040 8270 | 5 20 |

| Table 2 | | | | |
|---|---------------------|---|--------------------------------|-------------------------|
| Assessment Monitoring Parameters ¹ | | | | |
| Common Name ² | CAS RN ³ | Chemical Abstracts Service Index Name ⁴ | Suggested Methods ⁵ | PQL ⁶ (µg/L) |
| Chloroethane; Ethyl chloride | 75-00-3 | Ethane, chloro- | 8010 | 5 |
| | | | 8021 | 1 |
| | | | 8260 | 10 |
| Chloroform | 67-66-3 | Methane, trichloro- | 8010 | 0.5 |
| | | | 8021 | 0.2 |
| | | | 8260 | 5 |
| 2-Chloronaphthalene | 91-58-7 | Naphthalene, 2-chloro- | 8120 | 10 |
| | | | 8270 | 10 |
| 2-Chlorophenol | 95-57-8 | Phenol, 2-chloro- | 8040 | 5 |
| | | | 8270 | 10 |
| 4-Chlorophenyl phenyl ether | 7005-72-3 | Benzene, 1-chloro-4-phenoxy- | 8110 | 40 |
| | | | 8270 | 10 |
| Chloroprene | 126-99-8 | 1,3-Butadiene, 2-chloro- | 8010 | 50 |
| | | | 8260 | 20 |
| Chromium | (Total) | Chromium | 6010 | 70 |
| | | | 7190 | 500 |
| | | | 7191 | 10 |
| Chrysene | 218-01-9 | Chrysene | 8100 | 200 |
| | | | 8270 | 10 |
| Cobalt | (Total) | Cobalt | 6010 | 70 |
| | | | 7200 | 500 |
| | | | 7201 | 10 |
| Copper | (Total) | Copper | 6010 | 60 |
| | | | 7210 | 200 |
| m-Cresol | 108-39-4 | Phenol, 3-methyl- | 8270 | 10 |
| o-Cresol | 95-48-7 | Phenol, 2-methyl- | 8270 | 10 |
| p-Cresol | 106-44-5 | Phenol, 4-methyl- | 8270 | 10 |
| Cyanide | 57-12-5 | Cyanide | 9010 | 200 |
| 2,4-D; 2,4-Dichlorophenoxyacetic acid | 94-75-7 | Acetic acid, (2,4-dichlorophenoxy)- | 8150 | 10 |
| 4,4'-DDD | 72-54-8 | Benzene 1,1'-(2,2-dichloroethylidene) bis[4-chloro- | 8080 | 0.1 |
| | | | 8270 | 10 |
| 4,4'-DDE | 72-55-9 | Benzene, 1,1'-(dichloroethenylidene) bis[4-chloro- | 8080 | 0.05 |
| | | | 8270 | 10 |
| 4,4'-DDT | 50-29-3 | Benzene, 1,1'-(2,2,2-trichloroethylidene) bis[4-chloro- | 8080 | 0.1 |
| | | | 8270 | 10 |
| Diallate | 2303-16-4 | Carbamothioic acid, bis(1-methyl-ethyl)-, S-(2,3-dichloro-2-propenyl) ester | 8270 | 10 |
| Dibenz[a,h]-anthracene | 53-70-3 | Dibenz[a,h]anthracene | 8100 | 200 |
| | | | 8270 | 10 |
| Dibenzofuran | 132-64-9 | Dibenzofuran | 8270 | 10 |
| Dibromochloromethane; Chlorodibromomethane | 124-48-1 | Methane, dibromochloro- | 8010 | 1 |
| | | | 8021 | 0.3 |
| | | | 8260 | 5 |
| 1,2-Dibromo-3-chloropropane; DBCP | 96-12-8 | Propane, 1,2-dibromo-3-chloro- | 8011 | 0.1 |
| | | | 8021 | 30 |
| | | | 8260 | 25 |
| 1,2-Dibromoethane; Ethylene dibromide | 106-93-4 | Ethane, 1,2-dibromo- | 8011 | 0.1 |
| | | | 8021 | 10 |
| | | | 8260 | 5 |
| Di-n-butyl phthalate | 84-74-2 | 1,2-Benzene dicarboxylic acid, dibutyl ester | 8060 | 5 |
| | | | 8270 | 10 |
| o-Dichlorobenzene | 95-50-1 | Benzene, 1,2-dichloro- | 8010 | 2 |
| | | | 8020 | 5 |
| | | | 8021 | 0.5 |
| | | | 8120 | 10 |
| | | | 8260 | 5 |
| | | | 8270 | 10 |
| m-Dichlorobenzene | 541-73-1 | Benzene, 1,3-dichloro- | 8010 | 5 |
| | | | 8020 | 5 |
| | | | 8021 | 0.2 |
| | | | 8120 | 10 |
| | | | 8260 | 5 |
| | | | 8270 | 10 |
| p-Dichlorobenzene | 106-46-7 | Benzene, 1,4-dichloro- | 8010 | 2 |
| | | | 8020 | 5 |
| | | | 8021 | 0.1 |
| | | | 8120 | 15 |
| | | | 8260 | 5 |
| | | | 8270 | 10 |

| Table 2 | | | | |
|---|---------------------|---|--------------------------------|-------------------------|
| Assessment Monitoring Parameters ¹ | | | | |
| Common Name ² | CAS RN ³ | Chemical Abstracts Service Index Name ⁴ | Suggested Methods ⁵ | PQL ⁶ (µg/L) |
| 3,3'-Dichlorobenzidine | 91-94-1 | [1,1'-Biphenyl]-4,4'-diamine, 3,3'- dichloro- | 8270 | 20 |
| trans-1,4-Dichloro-2-butene | 110-57-6 | 2-Butene, 1,4-dichloro-, (E)- | 8260 | 100 |
| Dichlorodifluoromethane | 75-71-8 | Methane, dichlorodifluoro- | 8021 8260 | 0.5 5 |
| 1,1-Dichloroethane | 75-34-3 | Ethane, 1,1-dichloro- | 8010 8021 8260 | 1 0.5 5 |
| 1,2-Dichloroethane; Ethylene dichloride | 107-06-2 | Ethane, 1,2-dichloro- | 8010 8021 8260 | 0.5 0.3 5 |
| 1,1-Dichloroethylene; Vinylidene chloride | 75-35-4 | Ethene, 1,1-dichloro | 8010 8021 8260 | 1 0.5 5 |
| cis-1,2-Dichloroethylene; cis-1,2-Dichloroethene | 156-59-2 | Ethene, 1,2-dichloro-, (Z)- | 8021 8260 | 0.2 5 |
| trans-1,2-Dichloroethylene | 156-60-5 | Ethene, 1,2-dichloro-(E)- | 8010 8021 8260 | 1 0.5 5 |
| 2,4-Dichlorophenol | 120-83-2 | Phenol, 2,4-dichloro- | 8040 8270 | 5 10 |
| 2,6-Dichlorophenol | 87-65-0 | Phenol, 2,6-dichloro- | 8270 | 10 |
| 1,2-Dichloropropane | 78-87-5 | Propane, 1,2-dichloro- | 8010 8021 8260 | 0.5 0.05 5 |
| 1,3-Dichloropropane; Trimethylene dichloride | 142-28-9 | Propane, 1,3-dichloro- | 8021 8260 | 0.3 5 |
| 2,2-Dichloropropane; Isopropylidene chloride | 594-20-7 | Propane, 2,2-dichloro- | 8021 8260 | 0.5 15 |
| 1,1-Dichloropropene | 563-58-6 | 1-Propene, 1,1-dichloro- | 8021 8260 | 0.2 5 |
| cis-1,3-Dichloropropene | 10061-01-5 | 1-Propene, 1,3-dichloro-, (Z)- | 8010 8260 | 20 10 |
| trans-1,3-Dichloropropene | 10061-02-6 | 1-Propene, 1,3-dichloro-, (E)- | 8010 8240 | 5 5 |
| Dieldrin | 60-57-1 | 2,7:3,6-Dimethanonaphth[2,3-b]oxirene, 3,4,5,6,9,9-hexachloro- 1a,2,2a,3,6,6a,7,7a-octahydro-, (1α,2β,2α,3β,6β,6α,7β,7α)- | 8080 8270 | 0.05 10 |
| Diethyl phthalate | 84-66-2 | 1,2-Benzenedicarboxylic acid, diethyl ester | 8060 8270 | 5 10 |
| O,O-Diethyl O-2-pyrazinyl phosphorothioate; Thionazin | 297-97-2 | Phosphorothioic acid, O,O-diethyl O-pyrazinyl ester | 8141 8270 | 5 20 |
| Dimethoate | 60-51-5 | Phosphorodithioic acid, O,O-dimethyl-S-[2-(methylamino)-2-oxoethyl] ester | 8141 8270 | 3 20 |
| p-(Dimethylamino)azobenzene | 60-11-7 | Benzenamine, N,N-dimethyl-4- (phenylazo)- | 8270 | 10 |
| 7,12-Dimethylbenz[a] anthracene | 57-97-6 | Benz[a]anthracene, 7,12-dimethyl- | 8270 | 10 |
| 3,3'-Dimethylbenzidine | 119-93-7 | [1,1'-Biphenyl]-4,4'-diamine, 3,3'- dimethyl- | 8270 | 10 |
| 2,4-Dimethylphenol | 105-67-9 | Phenol, 2,4-dimethyl- | 8040 | 5 |
| Dimethyl phthalate | 131-11-3 | 1,2-Benzenedicarboxylic acid, dimethyl ester | 8060 8270 | 5 10 |
| m-Dinitrobenzene | 99-65-0 | Benzene, 1,3-dinitro- | 8270 | 20 |
| 4,6-Dinitro-o-cresol | 534-52-1 | Phenol, 2-methyl-4,6-dinitro- | 8040 8270 | 150 50 |
| 2,4-Dinitrophenol | 51-28-5 | Phenol, 2,4-dinitro- | 8040 8270 | 150 50 |
| 2,4-Dinitrotoluene | 121-14-2 | Benzene, 1-methyl-2,4-dinitro- | 8090 8270 | 0.2 10 |
| 2,6-Dinitrotoluene | 606-20-2 | Benzene, 2-methyl-1,3-dinitro- | 8090 8270 | 0.1 10 |
| Dinoseb; DNBP; 2-sec-Butyl-4,6-dinitrophenol | 88-85-7 | Phenol, 2-(1-methyl- propyl)-4,6-dinitro- | 8150 8270 | 1 20 |
| Di-n-octyl phthalate | 117-84-0 | 1,2-Benzenedicarboxylic acid, dioctyl ester | 8060 8270 | 30 10 |
| Diphenylamine | 122-39-4 | Benzenamine, N-phenyl- | 8270 | 10 |
| Disulfoton | 298-04-4 | Phosphorodithioic acid, O,O-diethyl S-[2-(ethylthio) ethyl]ester | 8140 8141 8270 | 2 0.5 10 |
| Endosulfan I | 959-98-8 | 6,9-Methano-2,4,3 benzodioxathiepin, 6,7,8,9,10,10-hexachloro -1,5,5a,6,9,9a-hexahydro-,3-oxide, (3α,5αβ,6α,9α,9aβ)- | 8080 8270 | 0.1 20 |

| Table 2 | | | | |
|---|---------------------|--|--------------------------------|-------------------------|
| Assessment Monitoring Parameters ¹ | | | | |
| Common Name ² | CAS RN ³ | Chemical Abstracts Service Index Name ⁴ | Suggested Methods ⁵ | PQL ⁶ (µg/L) |
| Endosulfan II | 33213-65-9 | 6,9-Methano-2,4,3 benzodioxathiepin, 6,7,8,9,10,10-hexachloro -1,5,5a,6,9,9a-hexahydro-,3-oxide, (3α,5α,6β,9β,9α)- | 8080 8270 | 0.05 20 |
| Endosulfan sulfate | 1031-07-8 | 6,9-Methano-2,4,3 benzodioxathiepin, 6,7,8,9,10,10-hexa-chloro -1,5,5a,6,9,9a-hexahydro-,3,3-dioxide | 8080 8270 | 0.5 10 |
| Endrin | 72-20-8 | 2,7:3,6-Dimethanonaphth [2,3-b]oxirene, 3,4,5,6,9,9-hexachloro- 1a,2,2a,3,6,6a,7,7a-octahydro-, (1α,2β,2aβ,3α,6α,6aβ, 7β,7aα)- | 8080 8270 | 0.1 20 |
| Endrin aldehyde | 7421-93-4 | 1,2,4-Methenocyclopenta[cd]-pentalene-5-carboxaldehyde, 2,2a,3,3,4,7-hexachlorodecahydro- (1α,2β,2aβ,4β,4aβ,5β,6aβ,6bβ,7R*) | 8080 8270 | 0.2 10 |
| Ethylbenzene | 100-41-4 | Benzene, ethyl- | 8020 8221 8260 | 2 0.05 5 |
| Ethyl methacrylate | 97-63-2 | 2-Propenoic acid, 2-methyl-, ethyl ester | 8015 8260 8270 | 5 10 10 |
| Ethyl methanesulfonate | 62-50-0 | Methanesulfonic acid, ethyl ester | 8270 | 20 |
| Famphur | 52-85-7 | Phosphorothioic acid, O-[4-[(dimethyl- amino)-sulfonyl] phenyl]-O,O-dimethyl ester | 8270 | 20 |
| Fluoranthene | 206-44-0 | Fluoranthene | 8100 8270 | 200 10 |
| Fluorene | 86-73-7 | 9H-Fluorene | 8100 8270 | 200 10 |
| Heptachlor | 76-44-8 | 4,7-Methano-1H-indene, 1,4,5,6,7,8,8-heptachloro-3a,4,7,7a- tetrahydro- | 8080 8270 | 0.05 10 |
| Heptachlor epoxide | 1024-57-3 | 2,5-Methano-2H-indeno [1,2-b]oxirene, 2,3,4,5,6,7,7-heptachloro- 1a,1b,5,5a,6,6a-hexahydro-, (1α,1bβ,2α,5α,5aβ,6β,6aα) | 8080 8270 | 1 10 |
| Hexachlorobenzene | 118-74-1 | Benzene, hexachloro- | 8120 8270 | 0.5 10 |
| Hexachlorobutadiene | 87-68-3 | 1,3-Butadiene, 1,1,2,3,4,4-hexachloro- | 8021 8120 8260 8270 | 0.5 5 10 10 |
| Hexachlorocyclopentadiene | 77-47-4 | 1,3-Cyclopentadiene | 8120 8270 | 5 10 |
| Hexachloroethane | 67-72-1 | Ethane, hexachloro- | 8120 8260 8270 | 0.5 10 10 |
| Hexachloropropene | 1888-71-7 | 1-Propene, 1,1,2,3,3,3-hexachloro- | 8270 | 10 |
| 2-Hexanone | 591-78-6 | 2-Hexanone | 8260 | 50 |
| Indeno(1,2,3-cd) pyrene | 193-39-5 | Indeno[1,2,3-cd] pyrene | 8100 8270 | 200 10 |
| Isobutyl alcohol | 78-83-1 | 1-Propanol, 2-methyl- | 8015 8240 | 50 100 |
| Isodrin | 465-73-6 | 1,4:5,8-Dimethanonaphthalene, 1,2,3,4,10,10-hexachloro-1,4,4a,5,8,8a- hexahydro- (1α,4α,4aβ,5β,8β,8aβ)- | 8270 8260 | 20 10 |
| Isophorone | 78-59-1 | 2-Cyclohexen-1-one, 3,5,5-tri-methyl- | 8090 8270 | 60 10 |
| Isosafrole | 120-58-1 | 1,3-Benzodioxole, 5-(1-propenyl)- | 8270 | 10 |
| Kepone | 143-50-0 | 1,3,4-Metheno-2H- cyclobuta-[cd] pentalen-2-one, 1,1a,3,3a,4,5,5a,5b,6- decachlorooctahydro- | 8270 | 20 |
| Lead | (Total) | Lead | 6010 7420 7421 | 400 1,000 10 |
| Mercury | (Total) | Mercury | 7470 | 2 |
| Methacrylonitrile | 126-98-7 | 2-Propene, nitrile 2-methyl- | 8015 8260 | 5 100 |
| Methapyrilene | 91-80-5 | 1,2-Ethanediamine, N,N-dimethyl-N'-2-pyridinyl-N'-(2- thienylmethyl)- | 8270 | 100 |

| Table 2 | | | | |
|--|---------------------|--|--------------------------------|-------------------------|
| Assessment Monitoring Parameters ¹ | | | | |
| Common Name ² | CAS RN ³ | Chemical Abstracts Service Index Name ⁴ | Suggested Methods ⁵ | PQL ⁶ (µg/L) |
| Methoxychlor | 72-43-5 | Benzene, 1,1'-(2,2,2, trichloroethylidene) bis[4-methoxy- | 8080 8270 | 2 10 |
| Methyl bromide; Bromomethane | 74-83-9 | Methane, bromo- | 8010 8021 | 20 10 |
| Methyl chloride; Chloromethane | 74-87-3 | Methane, chloro- | 8010 8021 | 1 0.3 |
| 3-Methylcholanthrene | 56-49-5 | Benz[<i>jj</i>]aceanthrylene, 1,2-dihydro- 3-methyl- | 8270 | 10 |
| Methyl ethyl ketone; MEK | 78-93-3 | 2-Butanone | 8015 8260 | 10 100 |
| Methyl iodide; Iodomethane | 74-88-4 | Methane, iodo- | 8010 8260 | 40 10 |
| Methyl methacrylate | 80-62-6 | 2-Propenoic acid, 2-methyl-, methyl ester | 8015 8260 | 2 30 |
| Methyl methanesulfonate | 66-27-3 | methanesulfonic acid, methyl ester | 8270 | 10 |
| 2-Methylnaphthalene | 91-57-6 | Naphthalene, 2-methyl- | 8270 | 10 |
| Methyl parathion; Parathion methyl | 298-00-0 | Phosphorothioic acid, O,O-dimethyl O-(4-nitrophenyl) ester | 8140 8141 8270 | 0.5 1 10 |
| 4-Methyl-2-pentanone; Methyl isobutyl ketone | 108-10-1 | 2-Pentanone, 4-methyl | 8015 8260 | 5 100 |
| Methylene bromide; Dibromomethane | 74-95-3 | Methane, dibromo- | 8010 8021 8260 | 15 20 10 |
| Methylene chloride; Dichloromethane | 75-09-2 | Methane, dichloro- | 8010 8021 8060 | 5 0.2 10 |
| Naphthalene | 91-20-3 | Naphthalene | 8021 8100 8260 8270 | 0.5 200 5 10 |
| 1,4-Naphthoquinone | 130-15-4 | 1,4-Naphthalenedione | 8270 | 10 |
| 1-Naphthylamine | 134-32-7 | 1-Naphthalenamine | 8270 | 10 |
| 2-Naphthylamine | 91-59-8 | 2-Naphthalenamine | 8270 | 10 |
| Nickel | (Total) | Nickel | 6010 7520 | 50 400 |
| o-Nitroaniline | 88-74-4 | Benzenamine, 2-nitro- | 8270 | 50 |
| m-Nitroaniline | 99-09-2 | Benzenamine, 3-nitro- | 8270 | 50 |
| p-Nitroaniline | 100-01-6 | Benzenamine, 4-nitro- | 8270 | 50 |
| Nitrobenzene | 98-95-3 | Benzene, nitro- | 8090 8270 | 40 10 |
| o-Nitrophenol | 88-75-5 | Phenol, 2-nitro- | 8040 8270 | 5 10 |
| p-Nitrophenol | 100-02-7 | Phenol, 4-nitro | 8040 8270 | 10 50 |
| N-Nitrosodi-n-butylamine | 924-16-3 | 1-Butanamine, N-butyl-N-nitroso- | 8270 | 10 |
| N-Nitrosodiethylamine | 55-18-5 | Ethanamine, N-ethyl-N-nitroso- | 8270 | 20 |
| N-Nitrosodimethylamine | 62-75-9 | Methanamine, N-methyl-N-nitroso- | 8070 | 2 |
| N-Nitrosodiphenylamine | 86-30-6 | Benzenamine, N-nitroso-N-phenyl- | 8070 | 5 |
| N-Nitrosodipropylamine; Di-n-propylnitrosamine | 621-64-7 | 1-Propanamine, N-nitroso-N-propyl- | 8070 | 10 |
| N-Nitrosomethylethylamine | 10595-95-6 | Ethanamine, N-methyl-N-nitroso- | 8270 | 10 |
| N-Nitrosopiperidine | 100-75-4 | Piperidine, 1-nitroso- | 8270 | 20 |
| N-Nitrosopyrrolidine | 930-55-2 | Pyrrolidine, 1-nitroso- | 8270 | 40 |
| 5-Nitro-o-toluidine | 99-55-8 | Benzenamine, 2- methyl-5-nitro- | 8270 | 10 |
| Parathion | 56-38-2 | Phosphorothioic acid, O,O-diethyl O-(4-nitrophenyl) ester | 8141 8270 | 0.5 10 |
| Pentachlorobenzene | 608-93-5 | Benzene, pentachloro- | 8270 | 10 |
| Pentachloronitrobenzene | 82-68-8 | Benzene, pentachloronitro- | 8270 | 20 |
| Pentachlorophenol | 87-86-5 | Phenol, pentachloro- | 8040 8270 | 5 50 |
| Phenacetin | 62-44-2 | Acetamide, N-(4-ethoxyphenyl) | 8270 | 20 |
| Phenanthrene | 85-01-8 | Phenanthrene | 8100 8270 | 200 10 |

| Table 2 | | | | |
|---|--------------------------|---|--|-------------------------|
| Assessment Monitoring Parameters ¹ | | | | |
| Common Name ² | CAS RN ³ | Chemical Abstracts Service Index Name ⁴ | Suggested Methods ⁵ | PQL ⁶ (µg/L) |
| Phenol | 108-95-2 | Phenol | 8040 | 1 |
| | | | 8270 | 10 |
| p-Phenylenediamine | 106-50-3 | 1,4-Benzenediamine | 8270 | 10 |
| Phorate | 298-02-2 | Phosphorodithioic acid, O,O-diethyl S-[(ethylthio)methyl] ester | 8140 | 2 |
| | | | 8141 | 0.5 |
| | | | 8270 | 10 |
| Polychlorinated biphenyls; PCBs | See Note 9 | 1,1'-Biphenyl, chloro derivatives | 8080 | 50 |
| | | | 8270 | 200 |
| Pronamide | 23950-58-5 | Benzamide, 3,5-dichloro-N-(1,1-dimethyl-2-propynyl)- | 8270 | 10 |
| Propionitrile; Ethyl cyanide | 107-12-0 | Propanenitrile | 8015 | 60 |
| | | | 8260 | 150 |
| Pyrene | 129-00-0 | Pyrene | 8100 | 200 |
| | | | 8270 | 10 |
| Safrole | 94-59-7 | 1,3-Benzodioxole, 5-(2-propenyl)- | 8270 | 10 |
| Selenium | (Total) | Selenium | 6010 | 750 |
| | | | 7740 | 20 |
| | | | 7741 | 20 |
| Silver | (Total) | Silver | 6010 | 70 |
| | | | 7760 | 100 |
| Silvex; 2,4,5-TP | 93-72-1 | Propanoic acid, 2-(2,4,5-trichlorophenoxy)- | 8150 | 2 |
| Styrene | 100-42-5 | Benzene, ethenyl- | 8020 | 1 |
| | | | 8021 | 0.1 |
| | | | 8260 | 10 |
| Sulfide | 18496-25-8 | Sulfide | 9030 | 4,000 |
| | | | 2,4,5-T; 2,4,5-Trichlorophenoxyacetic acid | 93-76-5 |
| 1,2,4,5-Tetrachlorobenzene | 95-94-3 | Benzene, 1,2,4,5-tetrachloro- | 8270 | 10 |
| 1,1,1,2-Tetrachloroethane | 630-20-6 | Ethane, 1,1,1,2-tetrachloro- | 8010 | 5 |
| | | | 8021 | 0.05 |
| | | | 8260 | 5 |
| 1,1,2,2-Tetrachloroethane | 79-34-5 | Ethane, 1,1,2,2-tetrachloro- | 8010 | 0.5 |
| | | | 8021 | 0.1 |
| | | | 8260 | 5 |
| Tetrachloroethylene; Perchloroethylene; Tetrachloroethene | 127-18-4 | Ethene, tetrachloro- | 8010 | 0.5 |
| | | | 8021 | 0.5 |
| | | | 8260 | 5 |
| 2,3,4,6-Tetrachlorophenol | 58-90-2 | Phenol, 2,3,4,6-tetrachloro- | 8270 | 10 |
| Thallium | (Total) | Thallium | 6010 | 400 |
| | | | 7840 | 1,000 |
| | | | 7841 | 10 |
| Tin | (Total) | Tin | 6010 | 40 |
| Toluene | 108-88-3 | Benzene, methyl- | 8020 | 2 |
| | | | 8021 | 0.1 |
| | | | 8260 | 5 |
| o-Toluidine | 95-53-4 | Benzenamine, 2-methyl- | 8270 | 10 |
| Toxaphene | 8001-35-2 See note 10 | Toxaphene | 8080 | 2 |
| | | | 1,2,4-Trichlorobenzene | 120-82-1 |
| | | | 8120 | 0.5 |
| | | | 8260 | 10 |
| | | | 8270 | 10 |
| | | | 1,1,1-Trichloroethane; Methylchloroform | 71-55-6 |
| | | | 8021 | 0.3 |
| | | | 8260 | 5 |
| | | | 1,1,2-Trichloroethane | 79-00-5 |
| | | | 8260 | 5 |
| | | | Trichloroethylene; Trichloroethene | 79-01-6 |
| | | | 8021 | 0.2 |
| | | | 8260 | 5 |
| | | | Trichlorofluoromethane | 75-69-4 |
| | | | 8021 | 0.3 |
| | | | 8260 | 5 |

| Table 2 | | | | |
|---|--------------------------|--|--------------------------------|-------------------------|
| Assessment Monitoring Parameters ¹ | | | | |
| Common Name ² | CAS RN ³ | Chemical Abstracts Service Index Name ⁴ | Suggested Methods ⁵ | PQL ⁶ (µg/L) |
| 2,4,5-Trichlorophenol | 95-95-4 | Phenol, 2,4,5-trichloro- | 8270 | 10 |
| 2,4,6-Trichlorophenol | 88-06-2 | Phenol, 2,4,6-trichloro- | 8040 8270 | 5 10 |
| 1,2,3-Trichloropropane | 96-18-4 | Propane, 1,2,3-trichloro- | 8010 8021 8260 | 10 5 15 |
| O,O,O-Triethyl phosphorothioate | 126-68-1 | Phosphorothioic acid, O,O,O-triethyl ester | 8270 | 10 |
| sym-Trinitrobenzene | 99-35-4 | Benzene, 1,3,5-trinitro | 8270 | 10 |
| Vanadium | (Total) | Vanadium | 6010 7910 7911 | 80 2,000 40 |
| Vinyl acetate | 108-05-4 | Acetic acid, ethenyl ester | 8260 | 50 |
| Vinyl chloride | 75-01-4 | Ethene, chloro- | 8010 8021 8260 | 2 0.4 10 |
| Xylene (total) | 1330-20-7 See Note 11 | Benzene, dimethyl- | 8020 8021 8260 | 5 0.2 5 |
| Zinc | (Total) | Zinc | 6010 7950 7951 | 20 50 0.5 |

Notes:

¹ The regulatory requirements pertain only to the list of substances; the right-hand columns (Methods and PQL) are given for informational purposes only. See also Footnotes 5 and 6.

² Common names are those widely used in government regulations, scientific publications, and commerce; synonyms exist for many chemicals.

³ Chemical Abstracts Service registry number. Where "Total" is entered, all species in the groundwater that contain this element are included.

⁴ CAS index numbers are those used in the 9th Collective Index.

⁵ *Suggested Methods* refer to analytical procedure numbers used in EPA Publication SW-846. Analytical details can be found in SW-846 and in documentation on file at the agency.

Caution: The methods listed are representative of SW-846 procedures and may not always be the most suitable methods for monitoring an analyte under the regulations.

⁶ *Practical Quantitation Limits* (PQLs) are the lowest concentrations of analytes in groundwaters that can be reliably determined within specified limits of precision and accuracy by the indicated methods under routine laboratory operating conditions. The PQLs listed are generally stated to one significant figure. PQLs are based on 5-ml samples for volatile organics and 1-L samples for semivolatile organics.

Caution: The PQL values in many cases are based only on a general estimate for the method and not on a determination

for individual compounds; PQLs are not a part of the regulation.

⁷ This substance is often called Bis(2-chloroisopropyl) ether, the name that Chemical Abstracts Service applies to its noncommercial isomer, Propane, 2,2"-oxybis[2-chloro- (CAS RN 39638-32-9).

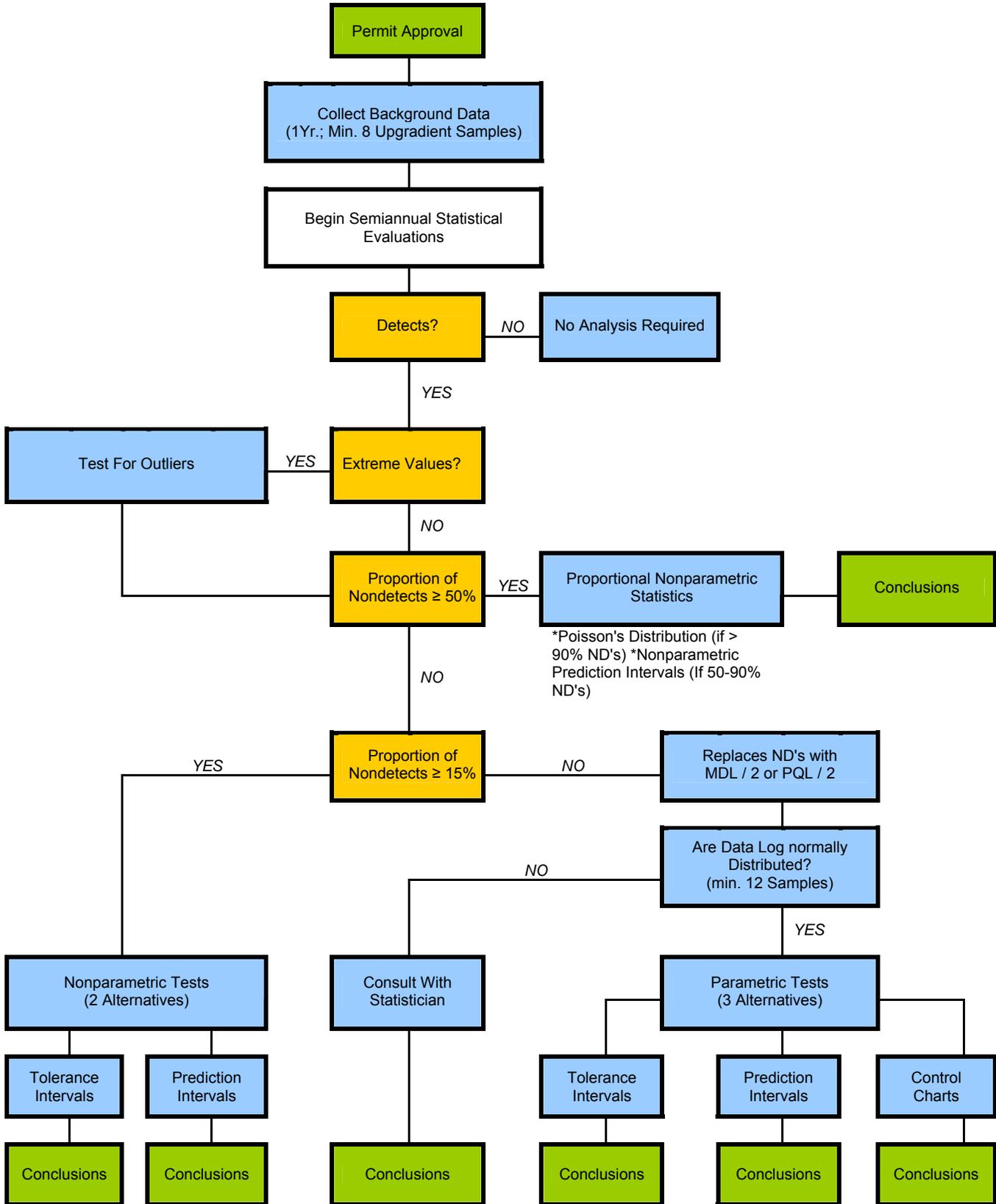
⁸ Chlordane: This entry includes alpha-chlordane (CAS RN 5103-71-9), beta-chlordane (CAS RN 5103-74-2), gamma-chlordane (CAS RN 5566-34-7), and constituents of chlordane (CAS RN 57-74-9 and CAS RN 12789-03-6). PQL shown is for technical chlordane. PQLs of specific isomers are about 20 ug/L by method 8270.

⁹ Polychlorinated biphenyls (CAS RN 1336-36-3); this category contains congener chemicals, including constituents of Aroclor 1016 (CAS RN 12674-11-2), Aroclor 1221 (CAS RN 11104-28-2), Aroclor 1232 (CAS RN 11141-16-5), Aroclor 1242 (CAS RN 53469-21-9), Aroclor 1248 (CAS RN 12672-29-6), Aroclor 1254 (CAS RN 11097-69-1), and Aroclor 1260 (CAS RN 11096-82-5). The PQL shown is an average value for PCB congeners.

¹⁰ Toxaphene: This entry includes congener chemicals contained in technical toxaphene (CAS RN 8001-35-20), i.e., chlorinated camphene.

¹¹ Xylene (total): This entry includes o-xylene (CAS RN 96-47-6), m-xylene (CAS RN 108-38-3), p-xylene (CAS RN 106-42-3), and unspecified xylenes (dimethylbenzenes) (CAS RN 1330-20-7). PQLs for method 8021 are 0.2 for o-xylene and 0.1 for m- or p-xylene. The PQL for m-xylene is 2.0 ug/L by method 8020 or 8260.

DECISION TREE DIAGRAM
(for Groundwater Data Statistical Procedure Selection)



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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1109 (June 2007).

§3007. Processes to Reduce Pathogens—Appendix D.1 and D.2

[Formerly Appendix D.2 existed in §3009.Appendix E.]

| Appendix D.1 | |
|--|---|
| Processes to Significantly Reduce Pathogens | |
| Aerobic Digestion | A process conducted by agitating solid waste with air or oxygen to maintain aerobic conditions at residence times ranging from 60 days at 15°C to 40 days at 20°C, with a volatile-solids reduction of at least 38 percent. |
| Air Drying | A process that allows liquid waste to drain and/or dry on under-drained sand beds or on paved or unpaved basins in which the depth of the waste is 9 inches. A minimum of three months is needed for this process; during two of these months daily temperatures must average above 0° C. |
| Anaerobic Digestion | A process conducted in the absence of air during a residence time ranging from 60 days at 20°C to 15 days at 35-55°C, with a volatile-solids reduction of at least 38 percent. |
| Composting | A process conducted by the within-vessel, static-aerated-pile, or windrow method whereby the solid waste is maintained at minimum operating conditions of 40°C for five days. For four hours during this period, the temperature must exceed 55°C. |
| Lime Stabilization | A process in which sufficient lime is added to produce a pH of 12 after two hours of contact. |
| Other Methods | Other methods or operating conditions for significantly reducing pathogens may be acceptable if pathogens and vector attraction of the waste (volatile solids) are reduced to an extent equivalent to the reduction achieved by any of the above methods. |

| Appendix D.2 | |
|--|--|
| Processes to Further Reduce Pathogens | |
| Composting | A process conducted by the within-vessel, static-aerated-pile, or windrow method. If the within-vessel or static-aerated-pile method is used, the solid waste is maintained at operating conditions of 55°C or greater for three days. If the windrow method is used, the solid waste attains a temperature of 55°C or greater for at least 15 days during the composting period, and the windrow is turned at least five times during this high-temperature period. |
| Heat Drying | A process in which dewatered solid waste cake is dried by direct or indirect contact with hot gases and moisture content is reduced to 10 percent or less. Solid waste particles reach temperatures well in excess of 80° C or the wet-bulb temperature of the gas stream, in contact with the solid waste at the point where it leaves the dryer, is in excess of 80° C. |
| Heat Treatment | A process in which liquid waste is heated to temperatures of 180° C for 30 minutes. |
| Thermophilic Aerobic Digestion | A process in which liquid waste is agitated with air or oxygen to maintain aerobic conditions at residence times of 10 days at 55-60° C, with a volatile-solids reduction of at least 38 percent. |
| Other Methods | Other methods or operating conditions for further reducing pathogens may be acceptable if pathogens and vector attraction of the waste (volatile solids) are reduced to an extent equivalent to the reduction achieved by any of the above methods. |

| Appendix D.2 | |
|---|---|
| Processes to Further Reduce Pathogens | |
| Any of the processes listed below, used in conjunction with the processes described above, will further reduce pathogens. The processes listed below will not, however, reduce the attraction of disease vectors if they are not used in conjunction with one of the above processes, and therefore are not sufficient alone. | |
| Beta-Ray Irradiation | A process in which solid waste is irradiated with beta rays from an accelerator at dosages of at least 1.0 megarad at room temperature (ca. 20° C). |
| Gamma-Ray Irradiation | A process in which solid waste is irradiated with gamma rays from certain isotopes, such as ⁶⁰ Cobalt and ¹³⁷ Cesium, at dosages of at least 1.0 megarad at room temperature (ca. 20° C). |
| Pasteurization | A process in which solid waste is maintained for at least 30 minutes at a minimum temperature of 70° C. |
| Other Methods | Other methods or operating conditions may be acceptable if pathogens are reduced to an extent equivalent to the reduction achieved by any of the above add-on methods. |

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1119 (June 2007).

§3009. Vector Attraction Reduction—Appendix E

NOTE: Former §3009.Appendix E has moved to §3007.Appendix D.2.

Vector Attraction Reduction

A. When final compost is applied to a lawn or home garden, follow one of the requirements from Paragraphs C.1-3 listed below.

B. When final compost is applied to agricultural land, forest, a public contact site, or a reclamation site, follow one of the requirements from Paragraphs C.1-4 listed below.

C. Vector Attraction Reduction Requirements

1. The specific oxygen uptake rate (SOUR) for final compost treated in an aerobic process shall be equal to or less than 1.5 milligrams of oxygen per hour per gram of total solids (dry weight basis) at a temperature of 20° C.

2. Final compost shall be treated in an aerobic process for 14 days or longer. During that time, the temperature of the composting material shall be higher than 40° C and the average temperature of the composting material shall be higher than 45° C.

3. The pH of composting material shall be raised to 12 or higher by alkali addition and, without the addition of more alkali, shall remain at 12 or higher for two hours and then at 11.5 or higher for an additional 22 hours.

4. Final compost applied to the land surface shall be incorporated into the soil within six hours after application to the land, unless otherwise specified by the permitting authority. When final compost incorporated into the soil meets the conditions described in LAC 33:VII.3009.Appendix E.1, the final compost shall be applied to the land within eight hours after being discharged from the pathogen treatment process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(3)(e).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1119 (June 2007).

§3011. Document to be Filed in the Parish Records Upon Final Closure of a Solid Waste Disposal Facility—Appendix F

Document to be Filed in the Parish Records Upon Final Closure of a Solid Waste Disposal Facility

[Name of permit holder] hereby notifies the public that the following described property was used for the disposal of solid waste. This site was closed on [date facility was closed]

in accordance with the *Louisiana Administrative Code*, Title 33, Part VII. Inquiries regarding the contents of [the facility] may be directed to [name of person with knowledge of the contents of the facility] at [address of person with knowledge of the contents of the facility].

Property Description

[Provide the specific description of the location of the facility]

Signature of Person Filing Parish Record

Typed Name and Title of Person Filing Parish Record

Date

(A true copy of the document must be certified by the parish clerk of court.)

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2537 (November 2000), repromulgated by the Office of the Secretary, Legal Affairs Division, LR 33:1119 (June 2007).

§3013. Appendix G

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), repealed by the Office of the Secretary, Legal Affairs Division, LR 33:1120 (June 2007).

§3015. Examples of Agricultural Wastes That May be Managed Under Approved Best Management Practice Plans—Appendix H

Examples of Agricultural Wastes That May be Managed Under Approved Best Management Practice Plans

1. Sugar mill bagasse ash
2. Bagasse
3. Filter press mud from sugar mills
4. Chicken litter
5. Dead poultry carcasses
6. Rice hulls
7. Rice hull ash
8. Shells from crawfish and shellfish processing
9. Vegetable peels and waste from packing and processing
10. Cotton gin trash
11. Livestock and poultry litter, bedding, and composted livestock and poultry carcasses
12. Waste and wastewater from livestock, poultry, and fisheries packing and processing

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1120 (June 2007).

§3017. LPPA-LDEQ Work Group Agreement—Appendix I

LPPA-LDEQ Work Group Agreement

The Louisiana Pulp and Paper Association-Louisiana Department of Environmental Quality Solid Waste Beneficial Use Work Group (LPPA-LDEQ Work Group) established an agreement in May 1997 regarding the applicability of the Louisiana Solid Waste Regulations (LSWR) to a variety of materials produced by the pulp and paper industry. During these meetings, a number of preliminary agreements regarding the regulatory applicability of the LSWR to certain categories of materials were reached.

1. Group 1 materials are those that are to be used or reused as either:

a. ingredients, raw materials, or feedstocks in industrial processes to make products; or

b. effective substitutes for commercial products, provided that such uses do not involve application to the land.

The LPPA-LDEQ Work Group agreed that the Group 1 materials, when employed for these uses, are not being discarded and, thus, are not subject to the generator, transporter, or permitting requirements of the LSWR. A listing of the Group 1 materials and their uses are provided in Table 1 of this Appendix.

2. Group 2 materials are those that are to be applied to the land subject to the general approval of the LDEQ in accordance with this Appendix, and:

a. the specific approval of the Louisiana Department of Agriculture and Forestry (LDAF) for use as either a potting soil amendment, soil liming agent, soil nutritional supplement, or cover for timber land;

b. the Louisiana Department of Transportation and Development (LDOTD) standards of criteria for soil cement, road base material, or an aggregate for road surfaces; or

c. the specific approval of the LDEQ for use as ingredients for landfill or surface impoundment closure caps.

The LPPA-LDEQ Work Group agreed that the Group 2 materials, when employed for these uses, are not being discarded and, thus, are not subject to the generator, transporter, or permitting requirements of the LSWR. A listing of the Group 2 materials and their uses are provided in Table 2 of this Appendix.

3. Group 3 materials are those materials listed in Table 1 or Table 2 that are either presently located in a regulated solid waste landfill or surface impoundment or that will be temporarily stockpiled in a regulated solid waste landfill or surface impoundment prior to one of the uses specified in Table 1 or Table 2. The LPPA-LDEQ Work Group agreed that these Group 3 materials, when proposed to be removed for one of the corresponding uses indicated for the Group 1 or Group 2 materials would be subjected to a one-time, facility-specific Solid Waste Permit Minor Modification that would not require public notice. See the example in this Appendix for the agreed upon language for the permit condition to be added pursuant to the one-time, facility-specific Solid Waste Permit Minor Modification. The LPPA-LDEQ Work Group also agreed that these Group 3 materials, when removed from a regulated solid waste landfill or surface impoundment pursuant to the above noted permit condition and employed for the Group 1 or Group 2 uses, are not being discarded and, thus, are not subject to the generator, transporter, or permitting requirements of the LSWR upon such removal.

Only Group 2 materials, i.e., those materials destined for off-site applications to the land for such uses as soil amendments, supplements, or ingredients, are allowed to be stored on-site in a location outside of any regulated solid waste unit. Such storage shall only occur in those on-site areas where runoff is fully captured and treated by the mill's wastewater treatment system. Such materials destined for approved off-site applications shall only be held in temporary storage for a period not to exceed 24 months. No Group 3 materials, i.e., those that had been placed in, and subsequently removed from, regulated solid waste units, shall be stored on-site at any location outside of a regulated solid waste unit at any time.

Reporting Requirements. Group 1, 2, or 3 materials, when utilized or removed for one of the uses specified in Table 1 or 2, shall be reported on the Disposer Annual Report filed by the mill.

| Table 1 | |
|--|---|
| Group 1 Materials (Materials Not Applied to Land) | |
| Material Description | Uses |
| Wood-fired boiler ash | <ol style="list-style-type: none"> 1. Feedstock to produce activated carbon. 2. Feedstock to produce charcoal. 3. Waste solidification or stabilization agent. 4. Feedstock to produce portland cement. 5. Any other feedstock use or substitute for a commercial product (no land application). |

| Table 1 Group 1 Materials (Materials Not Applied to Land) | |
|---|--|
| Material Description | Uses |
| Coal-fired boiler ash | 1. Waste solidification or stabilization agent. 2. Feed stock to produce portland cement. 3. Any other feedstock use or substitute for a commercial product (no land application). |
| Lime and lime mud | 1. Feedstock to produce lime. 2. Feedstock to produce portland cement. 3. Any other feedstock use or substitute for a commercial product (no land application). |
| Slaker grit | 1. Feedstock to produce portland cement. |
| Wood fiber (primary clarifier sludge) | 1. Feedstock to produce absorbents. 2. Feedstock to produce tar paper or roofing felt. 3. Feedstock to produce filter paper. 4. Feedstock to produce insulation. 5. Use as ingredient or core material in structural and nonstructural concrete products. 6. Any other feed stock use or substitute for a commercial product (no land application). |
| Recycled fiber (recycled fiber residues) | 1. Feed stock to produce absorbents. 2. Feedstock to produce tar paper or roofing felt. 3. Feedstock to produce filter paper. 4. Feedstock to produce insulation. 5. Use as ingredient or core material in structural and nonstructural concrete products. 6. Any other feedstock use or substitute for a commercial product (no land application). |

| Table 2 Group 2 Materials (Materials Applied to Land) | | |
|--|---|--|
| Material Description | Uses | Specifications* That Shall Be Met for Such Use |
| Wood-fired boiler ash (produced by the pulp and paper industry in Louisiana) | Potting soil amendment | Those required by the LDAF and LDEQ for approval. |
| | Soil liming agent | Those required by the LDAF and LDEQ for approval. |
| | Soil nutritional supplement | Those required by the LDAF and LDEQ for approval. |
| | Ingredient for landfill or surface impoundment closure caps | Those required by the LDEQ for approval. |
| | Any other use approved by the LDAF or LDOTD and LDEQ | Those required by the LDAF or LDOTD and LDEQ for approval. |
| Coal-fired boiler ash (produced by the pulp and paper industry in Louisiana) | Potting soil amendment | Those required by the LDAF and LDEQ for approval. |
| | Soil liming agent | Those required by the LDAF and LDEQ for approval. |
| | Soil nutritional supplement | Those required by the LDAF and LDEQ for approval. |
| | Ingredient for landfill or surface impoundment closure caps | Those required by the LDEQ for approval. |
| | Any other use approved by the LDAF or LDOTD and LDEQ | Those required by the LDAF or LDOTD and LDEQ for approval. |

| Table 2 Group 2 Materials (Materials Applied to Land) | | |
|--|---|---|
| Material Description | Uses | Specifications* That Shall Be Met for Such Use |
| Lime, lime mud, lime residues and slaker grit (produced by the pulp and paper industry in Louisiana) | Potting soil amendment | Those required by the LDAF and LDEQ for approval. |
| | Soil cement | Those required or adopted by the LDOTD. |
| | Soil liming agent | Those required by the LDAF for approval. |
| | Ingredient for landfill or surface impoundment closure caps | Those required by the LDEQ for approval. |
| | Any other use approved by the LDOTD, LDAF, and LDEQ | Those required by the LDAF and LDEQ for approval or required or adopted by the LDOTD. |
| Boiler gravel (that which becomes trapped in the bark on logs prior to debarking by the pulp and paper industry in Louisiana) | Road base material | None if used on-site; if used off-site, those required or adopted by the LDOTD. |
| | Aggregate for road surfaces | None if used on-site; if used off-site, those required or adopted by the LDOTD. |
| | Asphalt amendments | None if used on-site; if used off-site, those required or adopted by the LDOTD. |
| | Any other off-site use satisfying the criteria or standards of the LDOTD | If used off-site, those required or adopted by the LDOTD. |
| | Wood fiber and recycled fiber (such as primary clarifier sludge produced by the pulp and paper industry in Louisiana) | Potting soil amendment |
| Soil nutritional supplement | | Those required by the LDAF and LDEQ for approval. |
| Ingredient for landfill/surface impoundment closure caps | | Those required by the LDEQ for approval. |
| Cover for timber land | | Those required by the LDAF and LDEQ for approval. |
| Any other use approved by the LDAF or LDOTD and LDEQ | | Those required by the LDAF or LDOTD and LDEQ for approval. |
| Mixtures containing boiler ash, boiler gravel, wood fiber, recycled fiber, lime residues, and slaker grit (produced by the pulp and paper industry in Louisiana) | Potting soil amendment | Those required by the LDAF and LDEQ for approval. |
| | Soil Liming Agent | Those required by the LDAF and LDEQ for approval. |

| Table 2 Group 2 Materials (Materials Applied to Land) | | |
|---|--|---|
| Material Description | Uses | Specifications* That Shall Be Met for Such Use |
| | Ingredient for landfill / surface impoundment closure caps | Those required by the LDEQ for approval. |
| | Road base material | None if used on-site; if used off-site, those required or adopted by the LDOTD. |
| | Aggregate for road surfaces | None if used on-site; if used off-site, those required or adopted by the LDOTD. |
| | Asphalt amendments | None if used on-site; if used off-site, those required or adopted by the LDOTD. |
| | Any other on-site or off-site use approved by the LDAF or LDOTD and LDEQ | Those required by the LDAF or LDOTD and LDEQ, or LDEQ only, as appropriate, for approval. |

*The specifications and approval from LDEQ consist of those that are set forth in the LDEQ letter received in response to this LPPA request for reclassification dated June 18, 1999.

Example For

Permit Condition Language For The One-Time, Facility-Specific Minor Permit Modification Addressing Materials Removed From LSWR Regulated Surface Impoundments Or Landfills In Louisiana's Pulp And Paper Industry

In accordance with LAC 33:VII.303.A.11, when the [description of material], which has not been commingled or contaminated with dissimilar solid wastes, is removed from the [name of facility-specific surface impoundment or landfill], and subsequently used as:

1. Louisiana Department of Agriculture and Forestry (LDAF) approved potting soil amendments, soil liming agents, soil nutritional supplements, or cover for timber land;

2. soil cement, road base materials, or aggregate for road surfaces that satisfy the standards or criteria approved by the Louisiana Department of Transportation and Development (LDOTD); or

3. Louisiana Department of Environmental Quality (LDEQ) approved ingredients for landfill or surface impoundment closure caps; such material, when managed in accordance with all other applicable laws, regulations, and conditions, is no longer considered to be discarded and, thus, is not subject to the generator, transporter, or permitting requirements of the Louisiana Solid Waste Regulations (LSWR).

However, while such material is present in the [name of facility-specific surface impoundment or landfill], it remains subject to all applicable requirements of the LSWR until such removal occurs.

The total tonnage of this material removed from the regulated unit for any such use shall be reported on the facility's Annual Disposer's Solid Waste Report. Any proposed new use for the material must have the approval of the LDAF or LDOTD and LDEQ, or the LDEQ only, as appropriate.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1120 (June 2007).

Herman Robinson, CPM
Executive Counsel

0706#023

RULE

**Office of the Governor
Division of Administration
Office of Group Benefits**

PPO, EPO, and MCO Plans of Benefits
Lifetime Maximum Benefit
(LAC 32:III:701, V:701, IX:701)

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801(C) and 802(B)(2), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of the PPO, EPO, and MCO Plan Documents to change the lifetime maximum benefit for all benefits, including outpatient prescription drugs, to \$5,000,000 per person, deleting the separate lifetime maximum for outpatient prescription drugs.

Accordingly, OGB hereby gives adopts the following Rule to become effective July 1, 2007.

Title 32

EMPLOYEE BENEFITS

Part III. Preferred Provider (PPO) Plan of Benefits

Chapter 7. Schedule of Benefits—PPO

§701. Comprehensive Medical Benefits

A. Eligible expenses for professional medical services are reimbursed on a fee schedule of maximum allowable charges. All eligible expenses are determined in accordance with plan limitations and exclusions.

| | |
|--|-------------|
| Lifetime maximum for all benefits, including outpatient prescription drug benefits, per person | \$5,000,000 |
| Lifetime maximum for outpatient prescription drug benefits, per person | DELETED |

A.1. - D. . . .

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits, LR 25:1843 (October 1999), amended LR 26: 488 (March 2000), LR 27:719, 720, 722 (May 2001), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 27:1887 (November 2001), LR 28:2345 (November 2002), LR 29:340, 342, 343 (March 2003), repromulgated LR 29:578 (April 2003), amended LR 30:1192 (June 2004), LR 32:1897 (October 2006), LR 33:1122 (June 2007).

Part V. Exclusive Provider Organization (EPO) Plan of Benefits

Chapter 7. Schedule of Benefits—EPO

§701. Comprehensive Medical Benefits

A. Eligible expenses for professional medical services are reimbursed on a fee schedule of maximum allowable charges. All eligible expenses are determined in accordance with plan limitations and exclusions.

| | |
|--|-------------|
| Lifetime maximum for all benefits, including outpatient prescription drug benefits, per person | \$5,000,000 |
| Lifetime maximum for outpatient prescription drug benefits, per person | DELETED |

A.1. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1823 (October 1999), amended LR 26:487 (March 2000), LR 27:717 and 719 (May 2001), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 27:1886 (November 2001), LR 28:476 (March 2002), LR 28:2342, 2343 (November 2002), repromulgated LR 28:2509 (December 2002), amended LR 29:335, 337, 338 (March 2003), LR 30:1190 (June 2004), LR 32:1869 (October 2006), LR 33:1122 (June 2007).

**Part IX. Managed Care Option (MCO) Plan of Benefits
Chapter 7. Schedule of Benefits—MCO**

§701. Comprehensive Medical Benefits

A. Eligible expenses for professional medical services are reimbursed on a fee schedule of maximum allowable charges. All eligible expenses are determined in accordance with plan limitations and exclusions.

1. Lifetime Maximum Benefits

| | |
|--|-------------|
| Lifetime maximum for all benefits, including outpatient prescription drug benefits, per person | \$5,000,000 |
| Lifetime maximum for outpatient prescription drug benefits, per person | DELETED |

A.2. - D.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 29:901 (June 2003), amended LR 30:435 (March 2004), LR 33:1123 (June 2007).

Tommy D. Teague
Chief Executive Officer

0706#041

RULE

**Department of Health and Hospitals
Board of Nursing**

Faculty and Faculty Organization (LAC 46:XLVII.3515)

The Louisiana State Board of Nursing has amended LAC 46:XLVII.3515 Faculty and Faculty Organization in accordance with R.S. 37:918, R.S. 37:919 and R.S. 37:920 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLVII. Nurses

Subpart 2. Registered Nurses

Chapter 35. Nursing Education Programs

§3515. Faculty and Faculty Organization

A. Faculty Body. There shall be qualified faculty adequate in numbers to provide a safe, effective

faculty/student/client ratio not to exceed 10 students to one faculty member (10:1) in a clinical setting and to implement the program in nursing in relation to its stated philosophy, purposes and objectives. The number and size of classes taught each year, and the number of community agencies and their geographic locations are considered in determining the number of required faculty (see Requirements for Preceptorship; §3541.A-J, for related standard).

B. Qualifications

1. The program head and each nurse faculty member shall hold a current license to practice as a registered nurse in Louisiana and shall be appointed in compliance with state and federal laws on non-discrimination.

2. The program head of a baccalaureate program shall hold a minimum of bachelor's and master's degrees in nursing, or its equivalent, and an earned doctorate, and shall have a minimum of three years experience in the areas of nursing education and three years in clinical practice.

3. The program head of an associate degree or diploma program shall hold a minimum of bachelor's and master's degrees in nursing and shall have a minimum of three years experience in the areas of nursing education and three years in clinical practice.

4. The nurse faculty shall hold bachelor's and master's degrees in nursing. Requests for academic equivalency shall be approved on an individual basis (see LAC 46:XLVII.3515.B.6 for related standard).

5. Nurse faculty shall have a minimum of two years of nursing practice as a registered nurse in a clinical setting prior to their appointment.

6. Nurse faculty shall maintain current knowledge and skills in areas of responsibility and provide documentation of same.

7. Exceptions to the academic qualifications for nurse faculty shall be justified and approved under board-established guidelines. Such exceptions, if granted by the board shall be:

a. baccalaureate in nursing prepared individuals who are not enrolled in a masters' in nursing program are limited to a maximum of two calendar years in any consecutive five year period;

b. baccalaureate in nursing prepared individuals who are enrolled in a masters' in nursing program shall be approved annually on an individual basis in accordance with current board guidelines. Exceptions may be granted to each individual for a maximum of four calendar years.

8. The number of faculty exceptions shall not exceed 20 percent of the number of full-time nurse faculty employed (not FTE) in the program.

C. A faculty resignation rate that exceeds one third of the full-time nurse faculty employed by the program (not FTE) in an annual report shall be reported and justified in the annual school report.

D. Nurse faculty shall function under the same policies established for other faculty in the parent institution.

E. Policies for nurse faculty shall include but not be limited to:

1. qualifications for the position;
2. contract or letter of appointment to delineate terms of appointment, functions and responsibilities of the position; and

3. salary scale, promotion, retirement, vacation, sick leave, leave of absence for personal and professional growth and health care benefits.

F. A written plan for performance evaluation of faculty shall be established and utilized on a continuing basis.

G. A nurse faculty organization shall be established consistent with the parent institution and shall have clearly delineated bylaws.

H. Faculty workloads shall allow time for class and laboratory preparation, teaching, program revision, improvement in teaching methods, guidance of students, participation in faculty organizations and committees, research and scholarly endeavors, attendance at professional meetings and participation in continuing education programs.

I. Nurse faculty shall select, teach, guide and evaluate all learning experiences in the classroom and clinical facilities.

J. Nurse faculty shall be within the clinical facility during the learning experiences of students unless the students are observing only or engaged in a board-approved preceptor or community-based experience.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:186 (April 1977), amended LR 10:1025 (December 1984), LR 12:678 (October 1986), amended by the Department of Health and Hospitals, Board of Nursing, LR 19:1147 (September 1993), repromulgated LR 24:1293 (July 1998), amended LR 26:2789 (December 2000), repromulgated LR 27:851 (June 2001), amended LR 33:1123 (June 2007).

Barbara L. Morvant, MN, RN
Executive Director

0706#048

RULE

Department of Health and Hospitals Board of Pharmacy

Pharmacy Practice (LAC 46:LIII.Chapters 3-25)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Louisiana Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy has amended several Chapters.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIII. Pharmacists

Chapter 3. Board Hearings

§343. Board Decisions

A. The board's decision shall be based on finding(s) of fact and conclusion(s) of law. The board's decision shall be based on a preponderance of the evidence presented at a formal hearing, together with the board's determination of any appropriate sanctions, by an affirmative majority record vote of the board members participating in the decision process. Decisions shall be recorded and made a part of the record.

1 - 2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2081 (October 2003), effective January 1, 2004, amended LR 33:1124 (June 2007).

§351. Administrative Review

A. - B.4. ...

C. Time. The board or the hearing officer shall grant or deny the petition for rehearing within 30 days after its submission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2082 (October 2003), effective January 1, 2004, amended LR 33:1124 (June 2007).

§361. Cease and Desist Orders; Injunctive Relief

A. The board is empowered to issue an order to any person or firm engaged in any activity, conduct, or practice constituting a violation of the Louisiana Pharmacy Practice Act or the regulations promulgated thereto, directing such person or firm to forthwith cease and desist from such activity, conduct, or practice.

B. If the person or firm to whom the board directs a cease and desist order does not cease and desist the prohibited activity, conduct, or practice within the timeframe directed by said order, the board may seek, in any court of competent jurisdiction and proper venue, a writ of injunction enjoining such person or firm from engaging in the activity, conduct, or practice.

C. Upon proper showing of the board that such person or firm has engaged in the prohibited activity, conduct, or practice, the court shall issue a temporary restraining order restraining the person or firm from engaging in unlawful activity, conduct, or practices pending the hearing on a preliminary injunction, and in due course a permanent injunction shall be issued after a hearing, commanding the cessation of the unlawful activity, conduct, or practices complained of.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1124 (June 2007).

Chapter 5. Pharmacists

Subchapter A. Licensure Procedures

§505. Licensure

A. - A.2. ...

3. Renewal. The board shall make the annual pharmacist license renewal application available to all currently licensed Louisiana pharmacists prior to November 1. The completed application along with the appropriate fee shall be submitted to the board by December 31 of each year. A pharmacist's renewal of licensure shall be displayed in the principal location where the pharmacist is engaged in the practice of pharmacy and in such a manner that said renewal may be seen by patrons. A renewal of licensure shall serve as proof of licensure and a pharmacist's license to practice pharmacy for that year of issuance.

3.a. - 4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2083 (October 2003), effective January 1, 2004, amended LR 33:1124 (June 2007).

§507. Continuing Education Program

A. ...

B. Definitions

1. ACPE—Accreditation Council for Pharmacy Education.

2. - 3. ...

C. Requirements

1. A minimum of 1 1/2 ACPE or board-approved CPE units, or 15 hours, shall be required each year as a prerequisite for pharmacist licensure renewal. Of this number, no less than 3/10 ACPE or board-approved CPE units, or three hours, shall be acquired through live presentations, as designated by ACPE or the board. Alternatively, should a pharmacist choose to not acquire at least 3/10 ACPE or board-approved CPE units, or three hours, through live presentations, then he shall acquire an additional 5/10 ACPE or board-approved CPE units, or five hours, through any other acceptable method, over and above the minimum requirement, for a total of two ACPE or board-approved CPE units, or 20 hours.

2. - 3. ...

4. When deemed appropriate and necessary by the board, the number of hours to be acquired through live presentations as designated by ACPE or the board may be increased. When so deemed, the board shall notify all licensed pharmacists prior to the beginning of the year in which the CPE is required.

D. - D.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 23:1306 (October 1997), LR 29:2083 (October 2003), effective January 1, 2004, amended LR 33:1125 (June 2007).

§514. Impairment

A. *Impairment* or *Impaired*—a condition that causes an infringement on the ability of a person to practice, or assist in the practice, of pharmacy sufficient to pose a danger to the public. Impairment may be caused by, but is not limited to, alcoholism, substance abuse or addiction, mental illness, or physical illness.

B. Pharmacists shall be non-impaired.

C. Pharmacists who have knowledge another pharmacist, pharmacy intern, pharmacy technician, or pharmacy technician candidate is impaired shall notify the board of that fact as soon as possible.

D. Pharmacists may be subject to a medical evaluation for impairment by a board-approved addictionist, as authorized by the Louisiana Pharmacy Practice Act, R.S. 37:1161 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1125 (June 2007).

Subchapter B. Professional Practice Procedures

§519. State of Emergency

A. - A.1.b. ...

2. A pharmacist not licensed in Louisiana, but currently licensed in another state, may dispense prescription medications in the affected parish or parishes during the time a state of emergency exists when:

a. the pharmacist has some type of identification to verify current unrestricted licensure in another state;

b. the pharmacist is engaged in a legitimate relief effort during the emergency period; and

c. the pharmacist and pharmacy notify the board of their presence and approximate location in the affected parish or parishes prior to the engagement of professional practice.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2085 (October 2003), effective January 1, 2004, amended LR 33:1125 (June 2007).

§523. Collaborative Drug Therapy Management

A. Definitions. As used in this Chapter, the following terms shall have the meaning ascribed to them in this Section:

Board—the Louisiana Board of Pharmacy.

Collaborative Drug Therapy Management—that practice in which a pharmacist, to the extent authorized by a collaborative drug therapy management agreement, voluntarily agrees with a physician registered with the Louisiana State Board of Medical Examiners, to manage the disease specific drug therapy of one or more patients of such physician, within a predetermined range of medication selected by the physician and set forth in a written protocol. Drug therapy management shall be limited to:

a. monitoring and modifying a disease specific drug therapy;

b. collecting and reviewing patient history;

c. obtaining and reviewing vital signs, including pulse, temperature, blood pressure, and respiration;

d. ordering, evaluating, and applying the results of laboratory tests directly related to the disease specific drug therapy being managed under written protocol, provided such tests do not require the pharmacist to interpret such testing or formulate a diagnosis;

e. administration of vaccines to a patient 16 years of age or older by a pharmacist authorized to administer vaccines by the board;

f. providing up to a single seven day supply of a single drug after all refills authorized on the original prescription issued to the patient by the patient's physician have been dispensed; and

g. providing disease or condition specific patient education and counseling.

Collaborative Drug Therapy Management Agreement—a written document in which a pharmacist and a physician identify the terms and conditions under which they voluntarily agree to participate in collaborative drug therapy management.

Controlled Substance—any substance defined, enumerated, or included in federal or state statute or regulations, or any substance which may hereafter be designated as a controlled substance by amendment or supplementation of such statute or regulations.

Disease Specific Drug Therapy—a specific drug or drugs prescribed by a physician for a specific patient of such physician that is generally accepted within the standard of care for treatment of one of the following diseases or conditions:

- a. treatment and prevention of arterial and venous clot propagation and disease, i.e., anti-coagulant therapy;
- b. treatment and prevention of diabetes;
- c. adjustment of medication administered by inhalant for treatment of asthma;
- d. treatment and prevention of dyslipidemia;
- e. smoking cessation therapy;
- f. administration of disease specific vaccines to patients 16 years of age or older; and
- g. such other drugs, diseases or conditions as may be subsequently recommended by the advisory committee and approved by the board.

Drug—

- a. any substance recognized as a drug in the official compendium, or supplement thereto, designated by the board for use in the diagnosis, cure, mitigation, treatment or prevention of diseases in humans or animals;
- b. any substance intended for use in the diagnosis, cure, mitigation, treatment or prevention of diseases in humans or other animals; or
- c. any substance other than food intended to affect the structure or any function of the body of humans or other animals.

Drugs of Concern—a drug that is not a controlled substance but which is nevertheless defined and identified, in accordance with the procedures established by the Louisiana Prescription Monitoring Program Act, R.S. 40:1001-1014, as a drug with the potential for abuse.

Pharmacist—an individual currently licensed by the board to engage in the practice of pharmacy in the state.

Physician—an individual lawfully entitled to engage in the practice of medicine in this state as evidenced by a current, unrestricted license duly issued by the Louisiana State Board of Medical Examiners.

Prescribe—a request or order transmitted in writing, orally, electronically or by other means of telecommunication for a drug that is issued in good faith, in the usual course of professional practice and for a legitimate medical purpose, by a physician for the purpose of correcting a physical, mental, or bodily ailment of his patient.

Written Protocol—a written set of directives or instructions containing each of the components specified elsewhere in this Section for collaborative drug therapy management of disease specific drug therapy for a specific patient. The written protocol shall be signed by the physician and represents the physician orders for the collaborative drug therapy management to be provided to the patient.

B. Registration

1. Eligibility

a. No pharmacist shall engage in collaborative drug therapy management in this state until registered with the

board in accordance with this Section. To be eligible for registration, a pharmacist shall, as of the date of the application:

i. possess a current, unrestricted license to practice pharmacy issued by the board and not be the subject of a pending investigation or complaint by the board or by the pharmacy licensing authority of any other state or jurisdiction;

ii. be actively engaged in the practice of pharmacy in this state and the provision of pharmacist care similar to the activities anticipated in the collaborative drug therapy management agreement.

b. A pharmacist shall be deemed ineligible for registration of collaborative drug therapy management who:

i. does not possess the qualifications prescribed by §523.B.1(a);

ii. has voluntarily surrendered or had suspended, revoked, or restricted, his controlled dangerous substances license, permit, or registration (state or federal);

iii. has had a pharmacy license suspended, revoked, placed on probation or restricted in any manner by the board or by the pharmacy licensing authority of any other state or jurisdiction;

iv. has had an application for pharmacist licensure rejected or denied; or

v. has been, or is currently in the process of being denied, terminated, suspended, refused, limited, placed on probation or under other disciplinary action with respect to participation in any private, state, or federal health insurance program.

c. The board may, in its discretion, waive the limitations referenced in Subparagraph B.1.b of this Section on a case-by-case basis.

d. The board may deny registration to an otherwise eligible pharmacist for any of the causes enumerated in R.S. 37:1241.A, or any other violation of the provisions of the Pharmacy Practice Act or the board's rules.

e. The burden of satisfying the board as to the eligibility of a pharmacist for registration to engage in collaborative drug therapy management shall be upon the pharmacist. A pharmacist shall not be deemed to possess such qualifications unless and until the pharmacist demonstrates and evidences such qualifications in the manner prescribed by and to the satisfaction of the board.

2. Application and Issuance

a. Application for registration to engage in collaborative drug therapy management shall be made upon forms supplied by the board. Application forms and instructions may be obtained from the board's website at www.labp.com or by contacting the board's office.

b. An application for registration to engage in collaborative drug therapy management shall include:

i. the pharmacist's full name, license number, mailing address of record, and emergency contact information;

ii. a description of the pharmacist's professional education that qualifies him to engage in collaborative drug therapy management activities described in the agreement;

iii. proof documented in a form satisfactory to the board that the pharmacist possesses the qualifications set forth in this Section;

iv. a fully executed copy of a collaborative drug therapy management agreement conforming to the requirements of this Section;

v. confirmation the pharmacist shall only engage in collaborative drug therapy management to the extent detailed in the agreement and in accordance with the rules of the board; and

vi. such other information and documentation as the board may require to evidence qualification for registration.

c. The board may reject or refuse to consider any application for registration which is not complete in every detail required by the board or may refuse to consider a collaborative drug therapy management agreement which fails to comply with the minimum requirements of this Section. The board may, in its discretion, require a more detailed or complete response to any request for information set forth in the application as a condition to consideration.

d. A pharmacist seeking registration to engage in collaborative drug therapy management shall be required to appear before the board or its designee if the board has questions concerning the nature or scope of the pharmacist's application, finds discrepancies in the application, or for other good cause as determined by the board.

e. When all the qualifications, requirements, and procedures of this Section are met to the satisfaction of the board, the board shall approve and register a pharmacist to engage in collaborative drug therapy management. Registration of authority to engage in collaborative drug therapy management shall not be effective until the pharmacist receives notification of approval from the board.

f. Although a pharmacist shall notify the board each time he intends to engage in collaborative drug therapy management with a physician other than the physician identified in the pharmacist's original application, registration with the board is only required once. The board shall maintain a list of pharmacists who are registered to engage in collaborative drug therapy management.

g. Each pharmacist registered to engage in collaborative drug therapy management shall be responsible for updating the board within 10 days in the event of any change in the information recorded in the original application.

3. Expiration of Registration; Renewal

a. A pharmacist's registration to engage in collaborative drug therapy management with a physician shall terminate and become void, null and without effect upon the earlier of:

i. death of either the pharmacist or physician;

ii. loss of license of either the pharmacist or physician;

iii. disciplinary action limiting the ability of either the pharmacist or the physician to enter into collaborative drug therapy management;

iv. notification to the board that either the pharmacist or physician has withdrawn from collaborative drug therapy management;

v. a finding by the board of any of the causes that would render a pharmacist ineligible for registration; or

vi. expiration of a pharmacist's license or registration to engage in collaborative drug therapy

management for failure to timely renew such license or registration.

b. Registration of authority to engage in collaborative drug therapy management shall expire annually on the same day as a pharmacist's license unless renewed by the pharmacist by submitting an application to the board upon forms supplied by the board, together with verification of the accuracy of registration and collaborative drug therapy management agreement information on file with the board. An application for registration renewal shall be made part of and/or accompany a pharmacist's renewal application for pharmacist licensure.

c. The timely submission of an application for renewal of a registration shall operate to continue the expiring registration in effect pending renewal of registration or other final action by the board on such application for renewal.

C. Advisory Committee. The Collaborative Drug Therapy Management Advisory Committee, constituted as provided for in LAC 46:XLV.7417, shall assist the Board of Medical Examiners and the Board of Pharmacy on matters relative to collaborative drug therapy management. The President of the Board of Pharmacy shall appoint a pharmacist to serve on the committee, and said pharmacist shall serve at the pleasure of the Board of Pharmacy.

D. Standards of Practice

1. Authority, Responsibility, and Limitations of Collaborative Drug Therapy Management

a. A pharmacist registered with the board under this Section may engage in collaborative drug therapy management with a physician:

i. to the extent authorized by a collaborative drug therapy management agreement filed with approved by the board; and

ii. in accordance with a patient specific, drug specific, disease specific written protocol, satisfying the requirements of this Section.

b. A pharmacist engaged in collaborative drug therapy management shall:

i. retain professional responsibility to his patient for the management of his drug therapy;

ii. establish and maintain a pharmacist-patient relationship with each patient subject to the collaborative drug therapy management agreement;

iii. be geographically located to be physically present to provide pharmacist care to a patient subject to collaborative drug therapy management;

iv. provide on a schedule defined in the written protocol, a periodic status report on the patient, including but not limited to, any problem, complication, or other issues relating to patient non-compliance with drug therapy management; and

v. be available through direct telecommunication for consultation, assistance, and direction.

c. A pharmacist's registration to engage in collaborative drug therapy management with a physician is personal to the pharmacist. A registered pharmacist shall not allow another pharmacist or any other individual to exercise the authority conferred by such registration. A registered pharmacist shall not engage in collaborative drug therapy management with a non-physician or with any physician

who is not a party to the pharmacist's collaborative drug therapy management agreement on file with the board.

d. Collaborative drug therapy management shall only be utilized for those conditions or diseases identified in, and in the manner specified by, this Section. Additional conditions or diseases for which there are generally accepted standards of care for disease specific drug therapy may be identified by the advisory committee and approved by the board.

e. Only a pharmacist who holds the academic degree of Doctor of Pharmacy, which degree provided specific training in the area of anti-coagulant drug therapy, shall engage in collaborative drug therapy management in such particular area of practice covered by a collaborative drug therapy management agreement. The board may, in its discretion, grant an exception to this limitation on a case-by-case basis to a pharmacist who does not possess the academic degree required by this Section upon the affirmative recommendation and advice of the advisory committee that the pharmacist possesses the equivalent or other acceptable advanced training in the area of practice covered by the agreement.

f. The scope of the collaborative drug therapy management shall not include:

- i. any patient of the physician for whom such physician has not prepared a patient specific, drug specific, disease specific written protocol;
- ii. drug therapy management of more than one specific disease or condition. Administration of a vaccine or smoking cessation therapy is excepted from this provision;
- iii. drug therapy management of any patient by more than one registered physician and one pharmacist;
- iv. any patient under the age of 18 years of age. Administration of a vaccine or smoking cessation therapy is excepted from this provision.
- v. pregnant or nursing mothers;
- vi. initiation or discontinuance of drug therapy by a pharmacist, except as specified in the written protocol;
- vii. the management of controlled substances or drugs of concern; or
- viii. substitution of a drug prescribed by a physician without the explicit written consent of such physician.

2. Informed Consent

a. A pharmacist shall not engage in collaborative drug therapy management of a patient without the patient's written informed consent.

b. In addition to the requirements provided by law for obtaining a patient's informed consent, each patient who is subject to a collaborative drug therapy management agreement shall be:

- i. informed of the collaborative nature of drug therapy management for the patient's specific medical disease or condition and provided instructions and contact information for follow-up visits with the pharmacist and physician;
- ii. informed he may decline to participate in a collaborative drug therapy management practice and may withdraw at any time without terminating the physician-patient or pharmacist-patient relationship; and
- iii. provided written disclosure of any contractual or financial arrangement with any other party that may

impact one of the party's decision to participate in the agreement.

c. All services provided pursuant to a collaborative drug therapy management agreement shall be consistent with the agreement and shall be performed in a setting which insures patient privacy and confidentiality.

3. Collaborative Drug Therapy Management Agreement

a. A collaborative drug therapy management agreement shall, at a minimum, include:

- i. the name, professional license number, address or addresses, telephone/cell phone number, e-mail address, and emergency contact information for the pharmacist and physician, and the date of signing and termination of the agreement;
- ii. a description of the manner and circumstances under which the pharmacist and physician shall engage in collaborative drug therapy management;
- iii. the condition or disease to be managed;
- iv. the specific drug or drugs to be utilized for such condition or disease;
- v. the drug therapy management activities, as defined in this Section, to be performed by the pharmacist as authorized by the physician;
- vi. the procedure to be followed by the parties for drug therapy management and a plan of accountability defining the respective responsibilities of the pharmacist and physician;
- vii. a plan for reporting and documenting drug therapy management activities in the pharmacy and medical records and schedule by which such are to take place. A pharmacist shall submit a report to the collaborating physician at least every 30 days, or more frequently if warranted by clinical conditions, regarding the status of a patient's collaborative drug therapy management, with such report made a part of the pharmacy record for such patient;
- viii. a plan for record keeping, record sharing, and record storage. The agreement shall acknowledge all collaborative drug therapy management records shall be treated as and governed by the laws applicable to physician medical records;
- ix. acknowledgement each patient subject to the agreement shall be notified that a collaborative drug therapy management agreement exists, describes the procedures for obtaining informed consent of such patient, and the plan to address patient needs when both the pharmacist and physician are absent from the practice setting; and
- x. the procedure and schedule for reviewing and assessing the quality of care provided to each patient subject to collaborative drug therapy management under written protocol.

b. In the event the physician authorizes the pharmacist to order, evaluate, and apply the results of a laboratory test or tests directly related to disease specific drug therapy being managed under written protocol, the agreement shall identify the specific test or tests and describe the plan for securing such testing.

c. The agreement shall affirm that:

- i. collaborative drug therapy management shall be in conformity with generally accepted standards of care for treatment of a patient's specific disease or condition;

ii. all services provided pursuant to a collaborative drug therapy management shall be consistent with the agreement and performed in a setting that insures patient privacy and confidentiality; and

iii. a copy of the agreement shall be maintained on site by the respective parties.

d. The agreement may include the identity of one back-up pharmacist possessing the qualifications for collaborative drug therapy management required by this Section, who shall serve in the absence of the registered pharmacist to the agreement. The identifying information specified in this Section shall be provided for such pharmacist, along with and acknowledgement of responsibility to adhere to the same obligations and commitments imposed on the registered pharmacist to the agreement, as evidenced by a dated signature.

e. An agreement is valid for a period of time not to exceed one year. A collaborating pharmacist shall insure that a collaborative drug therapy management agreement is annually reviewed, updated as appropriate, signed by the pharmacist and physician.

f. Each registered pharmacist is responsible for updating the board within 10 days in the event any of the information required and submitted in accordance with this Section changes after the board has approved the agreement.

4. Written Protocols

a. A separate protocol shall be written for each patient to be managed by collaborative drug therapy management. A copy of each written protocol shall be:

i. provided to the collaborating physician and pharmacist;

ii. made part of the patient's pharmacy record; and

iii. appended by the pharmacist to the collaborative drug therapy management agreement with the physician and maintained in a separate file at the pharmacist's practice site listed on the pharmacist's registration on file with the board.

b. A physician shall develop a patient specific written protocol for a particular patient or utilize a standard written protocol, incorporating what patient specific deviations, if any, the physician may deem necessary or appropriate for such patient. In either event, a written protocol for disease specific drug therapy shall adhere to generally accepted standards of care and shall identify, at a minimum:

i. the pharmacist, the physician, and telephone number and other contact information for each;

ii. the patient's name, address, gender, date of birth, and telephone number;

iii. the disease or condition to be managed;

iv. the disease specific drug or drugs to be utilized;

v. the type and extent of drug therapy management the physician authorizes the pharmacist to perform;

vi. the specific responsibilities of the pharmacist and physician;

vii. the procedures, criteria, or plan the pharmacist is required to follow in connection with drug therapy management;

viii. the specific laboratory test or tests, if any, directly related to drug therapy management the physician authorizes the pharmacist to order and evaluate;

ix. the reporting and documentation requirements of the pharmacist and physician respecting the patient and schedule by which such are to take place;

x. the conditions and events upon which the pharmacist and physician are required to notify one another; and

xi. procedures to accommodate immediate consultation by telephone or direct telecommunication with, between or among the pharmacist, physician, and the patient.

c. Each written protocol utilized for collaborative drug therapy management of a patient shall be reviewed annually by the collaborating pharmacist, or more frequently as such pharmacist deems necessary, to address patient needs and to insure compliance with the requirements of this Section. A collaborating pharmacist's signature and date of review shall be noted on the written protocol and maintained by the pharmacist in accordance with this Section.

5. Administration of Vaccines

a. A collaborative drug therapy management agreement which includes the administration by a pharmacist of a patient specific order for administration of a disease specific vaccine shall include documentation of the pharmacist's authority to administer such medications, pursuant to §521 of the board's rules.

b. In addition to the requirements of this Section, the following information shall be included in any written protocol for any patient receiving a vaccination from a collaborating pharmacist:

i. the identity of the drug, dose, and route of administration;

ii. the date of the original order and the date of any authorized subsequent dose or administration;

iii. a statement the patient or patient's tutor, curator or legal guardian shall be provided the manufacturer's vaccine information statement with each dose;

iv. confirmation written policies and procedures for disposal of used or contaminated supplies shall be utilized;

v. a requirement for the pharmacist to immediately report any adverse event to the collaborating physician and such governmental entities as may be directed or required by the Louisiana Department of Health and Hospitals; and

vi. confirmation the physician shall be promptly available for consultation regarding contraindications and adverse reactions in said physician's patient.

c. This Section shall not prevent or restrict the Louisiana Department of Health and Hospitals, Office of Public Health, or any other governmental entity of this state from administering vaccines under the authority of other laws of this state.

6. Additional Refills. Whether or not and the extent to which a collaborating physician may authorize a collaborating pharmacist to dispense up to a single seven day supply of a single drug for a single patient utilized for disease specific drug therapy after all refills authorized for such physician's patient have been dispensed, shall be

specifically included in the collaborative drug therapy management agreement with such pharmacist, as well as the written protocol applicable to a specific patient.

7. Reporting Obligations and Responsibilities

a. A pharmacist engaged in collaborative drug therapy management shall notify the board, in writing, within 10 days of the occurrence or discovery of:

i. the death of a patient which was, in the pharmacist's opinion, directly related to drug therapy management;

ii. complications or errors which are, in the pharmacist's opinion, directly related to drug therapy management;

iii. a pharmacist's termination of a collaborative drug therapy management agreement with a physician and applicable reasons;

iv. a physician's termination of a collaborative drug therapy management agreement with a pharmacist and applicable reasons;

v. a patient's election to withdraw from participation in collaborative drug therapy management and applicable reasons;

vi. his or a physician's failure or refusal to abide by the terms, conditions, or restrictions of a collaborative drug therapy management agreement or written protocol and applicable reasons;

vii. the pharmacist's retirement or withdrawal from active practice in this state or relocation to another state to engage in pharmacy practice; or

viii. the revocation, suspension, or other restriction imposed on a physician's license which would prohibit the physician from entering into a collaborative drug therapy management agreement.

b. A pharmacist engaged in collaborative drug therapy management shall comply with reasonable requests by the board for personal appearances or information relative to the functions, activities, and performance of a pharmacist or physician engaged in collaborative drug therapy management.

8. Records

a. The following information shall be included in the pharmacy's record of a patient subject to collaborative drug therapy management:

i. the prescription or order implementing collaborative drug therapy management;

ii. the written protocol applicable to the patient evidencing documentation of annual review;

iii. documentation of all activities performed by the pharmacist;

iv. consultations and reports by and between the pharmacist and physician; and

v. documentation of the patient's informed consent to collaborative drug therapy management.

b. A pharmacist registered to engage in collaborative drug therapy management shall maintain and produce, upon inspection conducted by or at the request of a representative of the board, a copy of any or all collaborative drug therapy management agreements, amendments thereto, applicable written protocols and such other records or documentation as may be requested by the board to assess a pharmacist's compliance with requirements of this Section, the Pharmacy Practice Act, or other applicable board rules.

E. Sanctions

1. Action against Registration. For noncompliance with any of the provisions of this Section, the board may, in addition to or in lieu of administrative proceedings against a pharmacist's license, suspend or revoke a pharmacist's registration to engage in collaborative drug therapy management, or may impose such terms, conditions, or restrictions thereon as the board may deem necessary or appropriate.

2. Action against Pharmacist License. Any violation or failure to comply with the provisions of this Section shall be deemed a violation R.S. 37:1241.A.1, as well as a violation of any other applicable provision of R.S. 37:1241.A, providing cause for the board to take any of the actions permitted in R.S. 37:1241.A against the pharmacist's license.

3. Unauthorized Practice. Nothing in this Section shall be construed as authorizing a pharmacist to issue prescriptions, exercise independent medical judgment, render diagnoses, provide treatment, assume independent responsibility for patient care, or otherwise engage in the practice of medicine as defined in the Louisiana Medical Practice Act. Any person who engages in such activities, in the absence of medical licensure issued by the Louisiana State Board of Medical Examiners, shall be engaged in the unauthorized practice of medicine and subject to the penalties prescribed by the Louisiana Medical Practice Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1164(37)(b)(i).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1125 (June 2007).

Chapter 7. Pharmacy Interns

§705. Practical Experience

A. - B.1. ...

2. A pharmacy intern shall not practice in a permitted pharmacy site that is on probation with the board. A pharmacy intern shall not practice under the supervision of a pharmacist whose license is on probation with the board.

C. - C.5. ...

AUTHORITY NOTE: Promulgated in accordance with 37:1211.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2086 (October 2003), effective January 1, 2004, amended LR 33:1130 (June 2007).

§707. Impairment

A. *Impairment or Impaired*—a condition that causes an infringement on the ability of a person to practice, or assist in the practice, of pharmacy sufficient to pose a danger to the public. Impairment may be caused by, but is not limited to, alcoholism, substance abuse or addiction, mental illness, or physical illness.

B. Pharmacy interns shall be non-impaired.

C. Pharmacy interns who have knowledge a pharmacist, pharmacy intern, pharmacy technician, or pharmacy technician candidate is impaired shall notify the board of that fact as soon as possible.

D. Pharmacy interns may be subject to a medical evaluation for impairment by a board approved addictionist, as authorized by the Louisiana Pharmacy Practice Act, R.S. 37:1161 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1211.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1130 (June 2007).

Chapter 11. Pharmacies

Subchapter A. General Requirements

§1101. Pharmacy

A. - B. ...

C. Pharmacy Permit

1. The initial pharmacy permit application shall be completed and signed by the pharmacist-in-charge and the owner of the pharmacy and submitted to the board for approval. An application for a pharmacy permit shall expire one year after the date of receipt in the board office.

2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1310 (October 1997), amended LR 29:2087 (October 2003), effective January 1, 2004, amended LR 33:1131 (June 2007).

§1115. Advertising

A - C. ...

D. No advertising shall include any reference, direct or indirect, to any controlled dangerous substance as provided for in Schedules II, III, IV, or V of R.S. 40:964. The provision of coupons or vouchers for controlled dangerous substances through authorized prescribers, which accompany legitimate prescriptions for such controlled dangerous substances issued to patients, shall not be prohibited by this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1311 (October 1997), amended LR 29:2089 (October 2003), effective January 1, 2004, amended LR 33:1131 (June 2007).

§1117. Centralized Prescription Processing

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1312 (October 1997), amended LR 29:2089 (October 2003), effective January 1, 2004, repealed LR 33:1131 (June 2007).

Subchapter C. Pharmacy Opening, Closing, Change of Ownership, and Change of Location Procedures

§1135. Pharmacy Change of Ownership Procedures

A. - A.2. ...

3. Upon receipt of the new permit, the seller shall:

a. notify the board of the transaction, including the identity of the new owner(s); and

b. surrender the voided pharmacy permit and voided Louisiana Controlled Dangerous Substance License to the board.

4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2092 (October 2003), effective January 1, 2004, amended LR 33:1131 (June 2007).

Subchapter D. Off-Site Services

§1139. Definitions

A. As used in this Subchapter, the following terms shall have the meaning ascribed to them in this Section, unless the context clearly indicates otherwise.

Centralized Prescription Dispensing—the fulfillment by one permitted pharmacy of a request from another permitted pharmacy to fill or refill a prescription drug order.

On-Site Pharmacy—a permitted pharmacy which utilizes centralized prescription dispensing services from a remote dispenser or remote processing services from a remote processor.

Remote Processing Services—the processing of a medical order or prescription drug order by one permitted pharmacy on behalf of another permitted pharmacy, including:

- a. receipt, interpretation, or clarification of an order;
- b. data entry and information transfer;
- c. interpretation of clinical data;
- d. performance of drug utilization review; and
- e. provision of drug information concerning a patient's drug therapy; provided, however, that remote processing does not include the physical preparation or physical transfer of drugs.

Remote Dispenser—a Louisiana permitted pharmacy which provides centralized prescription dispensing services for another permitted pharmacy in Louisiana.

Remote Processor—a permitted pharmacy in Louisiana which provides remote processing services for another permitted pharmacy in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1131 (June 2007).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1131 (June 2007).

§1141. Centralized Prescription Dispensing

A. General Requirements

1. An on-site pharmacy may obtain centralized prescription dispensing services from a remote dispenser provided the pharmacies:

a. have the same owner or have entered into a written contract or agreement that outlines the services to be provided and the responsibilities and accountabilities of each pharmacy in compliance with federal and state laws, rules, and regulations; and

b. share a common electronic file or have appropriate technology to allow access to sufficient information necessary or required to provide the requested services.

2. All drugs dispensed to a patient that have been dispensed by a remote dispenser shall bear a label containing an identifiable code that provides a complete audit trail of the dispensing of the drug and pharmacy primary care activities.

B. Policies and Procedures

1. On-site pharmacies and remote dispensers engaging in the acquisition or provision of centralized dispensing services shall maintain a policy and procedure manual for reference by all personnel; it shall be made available for inspection and copying by the board.

2. At a minimum, the manual shall include policies for:

- a. a description of how the parties will comply with federal and state laws and regulations;
- b. the maintenance of appropriate records to identify the responsible pharmacist(s) in the dispensing and counseling processes;
- c. the maintenance of a mechanism for tracking the prescription drug order during each step in the dispensing process;
- d. the maintenance of a mechanism to identify on the prescription label all pharmacies involved in the dispensing of the prescription drug order; and
- e. the provision of adequate security to protect the confidentiality and integrity of patient information and to prevent its illegal use or disclosure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1131 (June 2007).

§1143. Remote Processing of Medical Orders or Prescription Drug Orders

A. General Requirements

1. An on-site pharmacy may obtain remote processing services from a remote processor provided the pharmacies:

- a. have the same owner or have entered into a written contract or agreement that outlines the services to be provided and the responsibilities and accountabilities of each pharmacy in compliance with federal and state laws, rules, and regulations; and
- b. share a common electronic file or have appropriate technology to allow access to sufficient information necessary or required to provide the requested services.

2. With respect to hospital pharmacies and institutional pharmacies, a contract or agreement for remote processing services shall not relieve the on-site pharmacy from employing or contracting with a pharmacist to provide routine pharmacy services within the hospital or institutional facility. The activities authorized by this Section are intended to supplement hospital and institutional pharmacy services when the pharmacy is not operating and are not intended to eliminate the need for an on-site pharmacy or pharmacist.

B. Access to Patient Information

1. The pharmacist at the remote processor shall have secure electronic access to the on-site pharmacy's patient information system and to all other electronic systems directly involved with the preparation of prescriptions that the on-site pharmacy's pharmacist has access to when the on-site pharmacy is operating. The pharmacist at the remote processor shall receive training in the use of the on-site pharmacy's electronic systems.

2. If an on-site pharmacy is not able to provide remote electronic access to the remote processor, both pharmacies shall have appropriate technology to allow access to the required patient information.

C. Policies and Procedures

1. On-site pharmacies and remote processors engaging in the acquisition or provision of remote processing services shall maintain a policy and procedure manual for reference by all personnel; it shall also be available for inspection and copying by the board.

2. At a minimum, the manual shall include policies and procedures for:

- a. identification of the responsibilities of each of the pharmacies;
- b. protection of the integrity and confidentiality of patient information;
- c. maintenance of appropriate records to identify the name, initials, or unique identification code of each pharmacist performing processing functions, the specific services performed, and the date of such services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1132 (June 2007).

Chapter 15. Hospital Pharmacy

§1503. Definitions

A. As used in this Chapter, the following terms shall have the meaning ascribed to them in this Section, unless the context clearly indicates otherwise.

* * *

Remote Processing Services—the processing of a medical order or prescription by one pharmacy on behalf of another pharmacy, including:

- a. receiving, interpreting, or clarifying a medical order;
- b. entering data and transferring medical order information;
- c. interpreting clinical data;
- d. performing therapeutic intervention relative to medication therapy; and
- e. providing drug information concerning a patient's drug therapy; provided, however, that remote processing does not include the physical preparation or physical transfer of drugs.

Remote Processor—a permitted hospital pharmacy in Louisiana which provides remote processing services for another permitted hospital pharmacy in Louisiana.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2093 (October 2003), effective January 1, 2004, amended LR 33:1132 (June 2007).

§1505. Hospital Pharmacy Permit

A. A hospital pharmacy permit shall be required to operate a pharmacy department located within a hospital for registered patients in a hospital. The permit shall be applied for, and renewed, in the manner prescribed by the board in Chapter 11 of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2093 (October 2003), effective January 1, 2004, amended LR 33:1132 (June 2007).

§1525. Remote Processing of Medical Orders

A. General Requirements

1. A hospital pharmacy may obtain remote processing services from a remote processor provided the pharmacies:

- a. have the same owner or have entered into a written contract or agreement that outlines the services to be

provided and the responsibilities and accountabilities of each pharmacy in compliance with federal and state laws, rules, and regulations; and

b. share a common electronic file or have appropriate technology to allow access to sufficient information necessary or required to provide the requested services.

2. A contract or agreement for remote processing services shall not relieve the hospital pharmacy from employing or contracting with a pharmacist to provide routine pharmacy services within the facility. The activities authorized by this Section are intended to supplement hospital pharmacy services when the pharmacy is not operating and are not intended to eliminate the need for an on-site hospital pharmacy or pharmacist.

B. Access to Patient Information

1. The remote pharmacist shall have secure electronic access to the hospital pharmacy's patient information system and to all other electronic systems that the hospital pharmacist has access to when the pharmacy is operating. The remote pharmacist shall receive training in the use of the hospital's electronic systems.

2. If a hospital pharmacy is not able to provide remote electronic access to the patient information system, both pharmacies shall have appropriate technology to allow access to the required patient information.

C. Policies and Procedures

1. Hospital pharmacies and remote processors engaging in the acquisition or provision of remote processing services shall maintain a policy and procedure manual for reference by all personnel; it shall also be available for inspection and copying by the board.

2. At a minimum, the manual shall include policies and procedures for:

a. identification of the responsibilities of each of the pharmacies;

b. protection of the integrity and confidentiality of patient information;

c. maintenance of appropriate records to identify the name, initials, or unique identification code of each pharmacist performing processing functions, the specific services performed, and the date of such services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1132 (June 2007).

Chapter 17. Institutional Pharmacy

Subchapter A. General Requirements

§1707. Drug Cabinet

A. - A.5. ...

6. Inspection. The pharmacy shall inspect medications stored in a drug cabinet every 30 days, plus or minus five days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2095 (October 2003), effective January 1, 2004, amended LR 33:1133 (June 2007).

Chapter 19. Nuclear Pharmacy

§1907. Qualified Nuclear Pharmacist

A. ...

B. Continuing Education. Nuclear pharmacists shall obtain at least five hours of the total required hours of Accreditation Council for Pharmacy Education (ACPE) or board-approved continuing education on those applications and procedures specific to nuclear pharmacy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2098 (October 2003), effective January 1, 2004, amended LR 33:1133 (June 2007).

Chapter 23. Out-of-State Pharmacy

§2307. Pharmacist-in-Charge

A. ...

B. The pharmacist-in-charge shall have an active and current license in the state in which the pharmacy is located, and further, shall not have any restrictions that prohibit the position of pharmacist-in-charge.

C. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 18:1381 (December 1992), effective January 1, 1993, LR 29:2100 (October 2003), effective January 1, 2004, amended LR 33:1133 (June 2007).

Chapter 25. Prescriptions, Drugs, and Devices

Subchapter B. Prescriptions

§2519. Prescription Refills

A. Refill Authorization. Prescription refills may be dispensed only with the prescriber's authorization, as indicated on the original prescription order. In the absence of the authorized practitioner's instructions on the original prescription, the prescription shall be considered non-refillable. When all refills authorized on the original prescription have been dispensed, then authorization from the prescribing practitioner shall be obtained prior to dispensing; when such authorization has been received, a new prescription shall be prepared and it shall be issued a different prescription number.

B. - B.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2104 (October 2003), effective January 1, 2004, amended LR 33:1133 (June 2007).

§2523. Transfer of Prescription Information

A. Prescription Transfer Requirements

1. Prescriptions for Controlled Dangerous Substances

a. The transfer of original prescription information for a controlled substance listed in Schedules III, IV, or V for the purpose of refill dispensing is permissible between pharmacies on a one time basis only. However, pharmacies electronically sharing a real-time, on-line database may

transfer up to the maximum refills permitted by law and the prescriber's authorization, whether or not the pharmacy from which the prescription is transferred is open for business. Transfers are subject to the following requirements.

i. The transfer is communicated directly between two licensed pharmacists and the transferring pharmacist records the following information.

(a). Invalidation of the prescription.

(b). Record on the reverse of the invalidated prescription the name, address, and DEA registration number of the pharmacy to which it was transferred and the name of the pharmacist receiving the prescription information.

(c). Record the date of the transfer and the name of the pharmacist transferring the information.

b. The pharmacist receiving the transferred prescription information shall reduce to writing the following.

i. Indication of the transferred nature of the prescription.

ii. Provide all information required for a prescription for a controlled substance (full name and address of patient; drug name, strength, and dosage form; quantity prescribed and directions for use; and the name, address, and DEA registration number of the prescriber) and include:

(a). date of issuance of original prescription;

(b). original number of refills authorized on original prescription;

(c). date of original dispensing;

(d). number of valid refills remaining and date(s) and location(s) of previous refill(s);

(e). pharmacy's name, address, DEA registration number and prescription number from which the prescription information was transferred;

(f). name of pharmacist who transferred the prescription; and

(g). pharmacy's name, address, DEA registration number and prescription number from which the prescription was originally filled.

iii. The original and transferred prescription(s) shall be maintained for a period of two years from the date of the last refill.

c. Pharmacies electronically accessing the same prescription record shall satisfy all information requirements of a manual mode for prescription transferal.

2. Prescriptions for Drugs Other Than Controlled Dangerous Substances

a. The transfer of original prescription information for the purpose of refill dispensing is permissible between pharmacies, subject to the following requirements.

i. Prescriptions may be transferred up to the maximum number of refills permitted by the prescriber on the original prescription.

ii. The transferring pharmacist, intern or certified technician shall record the information itemized in Clause 1.a.i above, with the exception of DEA registration numbers.

iii. The receiving pharmacist, intern or certified technician shall record the information itemized in

Subparagraph 1.b above, with the exception of DEA registration numbers.

b. The original and transferred prescription(s) shall be maintained for a period of two years from the date of the last refill.

c. Pharmacies electronically accessing the same prescription record shall satisfy all information requirements of a manual mode for prescription transferal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2104 (October 2003), effective January 1, 2004, amended LR 33:1133 (June 2007).

Subchapter D. Controlled Dangerous Substances

§2543. CDS Prescription Order Requirements

A. - B.6.b. ...

c. Partial Filling for Patient of Long-Term Care Facility or for Patient with Terminal Illness. A prescription for a drug listed in Schedule II for a patient in a long-term care facility or for a patient with a terminal illness may be filled in partial quantities.

i. - i.(c). ...

ii. The remaining portion may be filled within 60 days of the date of issue. However, if the remaining portion is not filled within the 60-day period, the pharmacist shall notify the prescribing practitioner.

B.6.c.iii. - C.3.d. ...

D. Labeling of Dispensed Controlled Dangerous Substances. In addition to the labeling requirements enumerated in §2517 of these regulations, a prescription label for a controlled dangerous substance shall include the federal transfer caution label.

E. - E.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2108 (October 2003), effective January 1, 2004, amended LR 33:1134 (June 2007).

§2549. CDS Theft or Loss

A. - A.2. ...

3. Notice. The permittee shall file the above-referenced report to the board within 10 days of discovery of the theft or loss.

4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2111 (October 2003), effective January 1, 2004, amended LR 33:1134 (June 2007).

Malcolm J. Broussard
Executive Director

0706#029

RULE

**Department of Health and Hospitals
Office of the Secretary
and
Department of Social Services
Office of the Secretary**

**Community and Family Support System—Cash Subsidy
(LAC 48:I.Chapter 161)**

The Department of Health and Hospitals, Office of the Secretary, Office of the Secretary and the Department of Social Services, Office of the Secretary has amended the entire Chapter 161 of Part I concerning the Community and Family Support System Cash Subsidy as authorized by R.S. 28:821. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Act 378 of the 1989 Regular Session of the Louisiana Legislature and Act 1011 of the 1991 Regular Session of the Louisiana Legislature created and continued the Community and Family Support System (R.S. 28:821 et seq.). The original Rule was promulgated to implement the Cash Subsidy Program to provide a cash stipend to families of eligible children with severe and profound disabilities to offset the cost of keeping their children at home. This amendment changes terminology for qualifying exceptionalities to reflect current usage, recognizes Human Services Districts and Human Services Authorities (in addition to state program offices) and returns management of the program waiting lists to the administration of these regional governing agencies.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 11. Community and Family Support System

**Chapter 161. Community and Family Support System
Cash Subsidy**

§16101. Introduction

A. The first and primary natural environment for all people is the family. Children, regardless of the severity of their disability, need families and enduring relationships with adults in a nurturing home environment. As with all children, children with developmental disabilities need families and family relationships to develop to their fullest potential. Services for persons with developmental disabilities should be responsive to the needs of the individual and his family, rather than fitting the person into existing programs. Family supports are those supports that enable a family to keep their child with developmental disabilities at home.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:186 (February 1992), repromulgated LR 33:1135 (June 2007).

§16103. Definitions

Agency—the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities (OCDD) Regional Offices and Human Services Districts (Districts) and Human Services Authorities (Authorities) providing

developmental disabilities services which shall administer the cash subsidy program for the exceptionalities of developmental delay for children between the ages of 3 through 8 years, autism, mental disability/severe, mental disability/profound, deaf-blind (deaf and blind), traumatic brain injury, multiple disabilities, other health impairment and orthopedic impairment, the Office of Mental Health (OMH) and Districts and Authorities providing mental health services which shall administer the cash subsidy program for the exceptionality, emotional disturbance.

Appropriate Documentation for Exceptionalities Served by the OCDD and Districts and Authorities Providing Developmental Disabilities Services—the most recent report, current within a year, which demonstrates parental participation with the Louisiana State Department of Education in development of specialized educational services and/or authorization of specialized educational settings for children with special needs. No evaluation or assessment can be accepted into consideration for eligibility determination unless incorporated into the report of exceptionality generated through the local school system. Only documentation that is current within a year can be accepted into consideration for eligibility determination. Appropriate documentation includes: the Pupil Appraisal Evaluation (for infants and toddlers, this may be called a Multidisciplinary Evaluation for Part C Services); the Individualized Education Plan (IEP); an approved home study plan; or, the Individual Family Service Plan (IFSP).

Appropriate Documentation for the Exceptionality served by the OMH and Districts and Authorities Providing Mental Health Services—the most recent report, current within a year, which demonstrates parental participation with the Louisiana State Department of Education in development of specialized educational services and/or authorization of specialized educational settings for children with special needs. Appropriate documents includes: the Pupil Appraisal Evaluation or the Individualized Education Plan (IEP), current within a year; or, evidence of an Interagency Service Coordination Process; or, a certification from a licensed mental health professional that the child meets the Department of Education's criteria for emotional disturbance; or, a current treatment plan from a licensed community mental health center.

Cash Subsidy—a monetary payment to eligible families of children with severe or profound developmental disabilities to offset the costs of keeping their child at home.

Child—an individual under the age of 18.

Developmental Disability—defined in accordance with the Developmental Disability Law at R.S. 28:451.2(12).

Licensed Mental Health Professional—a person credentialed to provide mental health services by a professional board established and approved by the state of Louisiana, including those boards which examine physicians (psychiatrists), psychologists, social workers, counselors, nurse practitioners, etc.

Qualifying Exceptionality—only the following exceptionalities identified through the Department of Education's Evaluation Process may be considered for the cash subsidy from the OCDD and Districts and Authorities providing developmental disabilities services: autism, deaf-blindness (deaf and blind), mental disability/severe, mental disability/profound, multiple disabilities, orthopedic

impairment, other health impairment, traumatic brain injury, and developmentally delayed for children between the ages of 3 through 8 years; other exceptionalities listed through that process are not eligible for participation in the cash subsidy program except that the exceptionality, emotional disturbance may be considered for the cash subsidy from the OMH and Districts and Authorities providing mental health services.

Responsible Care Giver—a child's natural or adoptive mother or father or the person who is responsible for the primary care and management of the child.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:862 (July 1997), LR 28:1019 (May 2002), LR 33:1135 (June 2007).

§16105. Application Process

A. Applications for cash subsidy will be accepted by mail only and only in the OCDD Regional Office or OMH or district or authority providing developmental disability or mental health services in which the child resides. There is no closing date for accepting applications.

B. The responsible care giver is responsible for completing the application and submission of appropriate documentation of a qualifying exceptionality. The responsible care giver is responsible for all aspects of the application process and for maintaining eligibility of their child.

C. To be complete, the documentation listed in §16103 which identifies a qualifying exceptionality must accompany the application for the cash subsidy and the application must be signed by the responsible care giver and received by the appropriate agency through the mail.

D. Applications for the cash subsidy shall be screened at the point of initial application to determine whether the child has a qualifying exceptionality and the child is appropriately served by the agency to ensure that applications are routed to the appropriate agency.

E. Only complete applications will be placed on the waiting list for eligibility determination with a post mark date of application of the envelope containing the complete application. Applications that are not complete will be returned to the responsible care giver with instructions on how to complete the application.

F. Applications will be maintained on the waiting list by date/time order of application, only in the region in which the child lives; no child may be placed on a waiting list or receive a cash subsidy from more than one region or agency.

G. Responsible care givers will receive confirmation of the date of receipt of the initial completed application and of their post marked date of application on the waiting list for eligibility determination, and annually thereafter.

H. A re-application can be submitted at any time a cash subsidy is terminated for any reason other than exceeding the eligible age for participation in the cash subsidy program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:186 (February

1992), amended LR 23:862 (July 1997), LR 28:1020 (May 2002), LR 33:1136 (June 2007).

§16107. Determining Children Eligible for the Cash Subsidy

A. In all cases, the exceptionality reported on the most current, current within a year, appropriate documentation (§16103) shall be used to make a determination of eligibility for the cash subsidy program.

B. Only evaluations reported through the Pupil Appraisal process will be accepted for consideration for exceptionalities served by the OCDD, OMH, or Districts or Authorities providing developmental disabilities services; such evaluations shall be considered when reported through that process.

C. Children must be involved in an educational setting approved by the local educational agency; documentation of such approval must be received on an annual basis.

D. Children must meet the criteria for developmental disability and severity of exceptionality, as appropriate, to be eligible to participate in the cash subsidy program through the OCDD or District or Authority providing developmental disabilities services.

1. If a child is classified with the following primary or secondary exceptionalities, the child is eligible for the cash subsidy from the OCDD or District or Authority providing developmental disabilities services without a screening of the severity of their exceptionality: autism, deaf-blindness (deaf and blind), mental disability/severe, mental disability/profound and multiple disabilities.

2. If a child is classified with the following primary or secondary exceptionalities, the child shall be screened by the OCDD or district or authority providing developmental disabilities services to determine whether they meet the severity criteria specific to their exceptionality: developmental delay for children between the ages of 3 through 8 years, orthopedic impairment, other health impaired, and traumatic brain injury. Only children who meet the criteria for severity of exceptionality shall be eligible to receive the cash subsidy.

E. If a child is classified with a primary or secondary exceptionality of emotional disturbance or presents other appropriate documentation that identifies an emotional disturbance, the child shall be screened by the OMH or district or authority providing mental health services to determine whether they meet the severity criteria specific to that exceptionality to be eligible to receive the cash subsidy.

F. Children who are adopted are eligible to participate in the cash subsidy program, including families who are receiving a specialized adoption subsidy; families who have more than one child who is eligible to participate in the cash subsidy program will be eligible for the cash subsidy amount for each child.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:863 (July 1997), LR 28:1020 (May 2002), LR 33:1136 (June 2007).

§16109. Children Ineligible for the Cash Subsidy

A. These children cannot participate in the cash subsidy program:

1. children living in subsidized out-of-home settings such as state-funded foster care or specialized foster care;
2. children living and/or attending schools outside the state of Louisiana; and
3. children in residence at the Louisiana School for the Deaf and the Louisiana School for the Visually Impaired.

B. Any removal of the cash subsidy recipient from the home of the responsible care giver that exceeds 30 days may be considered an out-of-home placement, except that acute care hospitalization does not disqualify a child, and psychiatric hospitalizations of up to 90 days are not automatically considered out-of-home placements. With appropriate documentation, the responsible agency shall make an individual assessment of the continuation of the cash subsidy in light of family situation and circumstances.

C. It will be the responsibility of the responsible care giver to notify the agency when a child is removed from the home; failure to notify the responsible agency of such removal shall be potential grounds for termination of the cash subsidy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:187 (February 1992), amended LR 23:863 (July 1997), LR 28:1021 (May 2002), LR 33:1136 (June 2007).

§16111. Eligibility Determination

A. The OCDD Regional Offices and the OMH or Districts or Authorities providing developmental disabilities or mental health services shall be responsible for determination of eligibility of all applicants for the cash subsidy for which they have responsibility.

B. An initial determination for eligibility for the cash subsidy will be made at the time that a slot becomes available; if receiving the cash subsidy, an annual determination of eligibility shall be made.

C. At any time a responsible care giver cannot provide adequate and appropriate documentation of a qualifying exceptionality, the responsible care giver may request the local school agency to re-evaluate the child's exceptionality.

1. If the request for re-evaluation occurs at the initial determination of eligibility, the eligibility determination process will be held open for the period of re-evaluation, plus 10 working days. If the child can then be determined to be eligible, the cash subsidy will begin in the month that the next slot becomes available.

2. If the request for re-evaluation occurs at the annual determination of eligibility, the cash subsidy will be discontinued until the re-evaluation becomes available, plus 10 working days. If the child can then be determined to be eligible, the cash subsidy will resume in the month when the determination is made.

D. The OCDD Regional Offices and the OMH and Districts and Authorities providing developmental disabilities or mental health services shall be responsible to maintain a waiting list of all cash subsidy applicants to the agency according to their post marked date of application to ensure that applicants for the cash subsidy program are not receiving the cash subsidy from other agencies. Cash subsidy opportunities will be offered to applicants by date/time order of application (first come, first serve).

E. There shall be no financial criteria for eligibility for the cash subsidy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:187 (February 1992), amended LR 23:863 (July 1997), LR 28:1021 (May 2002), LR 33:1137 (June 2007).

§16113. Payment Guidelines

A. The amount of the cash subsidy shall be \$258 monthly to families of eligible children with severe and profound disabilities to off-set the cost of keeping their child at home; families will not be required to document how the subsidy is used.

B. The termination date for a child attaining age 18 years shall be the last day of the birthday month.

C. If for any reason a recipient receives excess payment, repayment of that amount will be requested. Failure to cooperate with repayment will be referred to DHH for recoupment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:188 (February 1992), amended LR 23:864 (July 1997), LR 28:1021 (May 2002), LR 33:1137 (June 2007).

§16115. Terminations

A. Reasons for termination may include the following: child moves out of state; family requests termination of the cash subsidy payment; child is placed into a subsidized living setting or attends school away from the home or in another state; death of the child; fraud; theft; termination or limitation of funding of the program; failure to comply with the provisions of the individual agreement or the cash subsidy program including the requirement to maintain quarterly contact with the agency administering the cash subsidy; child's exceptionality or degree of severity no longer meets eligibility criteria; child attains age 18 years; and, responsible care giver fails to maintain the child in an approved educational program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:188 (February 1992), amended LR 23:864 (July 1997), LR 28:1022 (May 2002), LR 33:1137 (June 2007).

§16117. Ongoing Monitoring

A. The responsible care giver is responsible to maintain contact with the agency administering the cash subsidy at least every 90 days to verify that the child is in the home and the conditions of the individual agreement and cash subsidy program are being met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:188 (February 1992), amended LR 23:865 (July 1997), LR 28:1022 (May 2002), LR 33:1137 (June 2007).

§16119. Appeals

A. All persons receiving an eligibility determination shall have access to the Department of Health and Hospital's

appeal process and shall be informed of their right of appeal and the process to make an appeal at the point of initial eligibility determination and at termination of a cash subsidy for any reason other than exceeding the eligible age for participation in the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:188 (February 1992), amended LR 23:865 (July 1997), LR 28:1022 (May 2002), LR 33:1137 (June 2007).

§16121. Program Evaluation

A. An annual external evaluation based on participant satisfaction with the program and performance may be completed by the responsible program office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:188 (February 1992), amended LR 23:865 (July 1997), LR 28:1022 (May 2002), LR 33:1138 (June 2007).

Frederick P. Cerise, M.D., M.P.H.
Secretary, DHH
and
Ann S. Williamson
Secretary, DSS

0706#030

RULE

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

Early and Periodic Screening, Diagnosis and Treatment Dental Program—Reimbursement Rate Increase (LAC 50:XV.6901, 6903 and 6905)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has amended LAC 50:XV.6903 and adopted §§6901 and 6905 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 Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH-MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 5. Early and Periodic Screening, Diagnosis and Treatment

Chapter 69. Dental

§6901. General Provisions

A. Medicaid recipients who are under 21 years of age are eligible to receive services covered by the EPSDT Dental Program.

B. Provider participation is limited to those dentists who are duly licensed and authorized to practice dentistry in the state of Louisiana and who are enrolled in the Medicaid Program as a dental provider.

C. Prior authorization is required for certain dental services covered in the EPSDT Dental Program. Services

requiring prior authorization are identified in the Dental Services Manual, EPSDT Dental Program Fee Schedule.

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 33:1138 (June 2007).

§6903. Covered Services

A. Effective November 1, 2006, the following dental procedures are included in the service package for coverage under the EPSDT Dental Program:

1. prefabricated stainless steel crown with resin window; and
2. appliance removal (not by the dentist who placed the appliance), including removal of archbar.

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 29:175 (February 2003), amended LR 30:252 (February 2004), LR 31:667 (March 2005), LR 33:1138 (June 2007).

§6905. Reimbursement

A. Services covered in the EPSDT Dental Program shall be reimbursed at the lower of either:

1. the dentist's billed charges minus any third party coverage; or
2. the state's established schedule of fees, which is developed in consultation with the Louisiana Dental Association and the Medicaid dental consultants, minus any third party coverage.

B. Effective for dates of service on and after November 1, 2006, the reimbursement fees for:

1. comprehensive orthodontic treatment services are increased to the 2006 National Dental Advisory Service Comprehensive Fee Report 70th Percentile rate;
2. resin-based composite crown, anterior and prefabricated resin crown are increased by 30 percent of the fees on file in the EPSDT Dental Program Fee Schedule as of October 31, 2006; and
3. all other dental services are increased by 25 percent of the fees on file in the EPSDT Dental Program Fee Schedule as of October 31, 2006 unless otherwise stated in this Chapter.

C. The following dental services are excluded from the rate increase:

1. complete denture, maxillary;
2. complete denture, mandibular;
3. immediate denture, maxillary;
4. immediate denture, mandibular;
5. maxillary partial denture, resin base (including clasps);
6. mandibular partial denture, resin base (including clasps);
7. reline complete maxillary denture (laboratory);
8. reline complete mandibular denture (laboratory);
9. reline maxillary partial denture (laboratory);
10. reline mandibular partial denture (laboratory);
11. hospital call; and
12. behavior management, by report.

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 33:1138 (June 2007).

Frederick P. Cerise, M.D., M.P.H.
Secretary

0706#058

RULE

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

CommunityCARE Program
Immunization Pay-for-Performance Initiative
(LAC 50:I.2915)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted LAC 50:I.2915 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.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part I. Administration

Subpart 3. Medicaid Managed Care

Chapter 29. CommunityCARE

§2915. Immunization Pay-for-Performance

A. A supplemental payment will be implemented as an incentive to promote the immunization of Medicaid eligible children.

1. Qualification for the supplemental payment shall be based on the CommunityCARE primary care provider's participation in Vaccine for Children Program (VFC) and the Louisiana Immunization Network for Kids Statewide (LINKS), and performance in achieving state-established immunization benchmarks for children being up to date with recommended immunizations.

B. Supplemental Payment Calculations. Payments will be calculated on a monthly basis utilizing only the data that is in the LINKS immunization registry at the time of the monthly calculation.

C. Supplemental Payment Levels. Supplemental payments will be made to CommunityCARE PCPs or subcontractors of KIDMED services who utilize VFC and LINKS.

1. Supplemental payments shall be made according to the following levels:

a. \$0.25 per Medicaid recipient under the age of 21 linked to the CommunityCARE PCP with less than 75 percent of the recipients 24 months old and up-to-date with the appropriate vaccine series;

b. \$0.50 per Medicaid recipient under the age of 21 linked to the CommunityCARE PCP with 75 percent to 89 percent of the recipients 24 months old and up-to-date with the appropriate vaccine series; and

c. \$1 per Medicaid recipient under the age of 21 linked to the CommunityCARE PCP with 90 percent or more of the recipients 24 months old and up-to-date with the appropriate vaccine series.

2. Providers participating in this initiative shall only qualify for a single level of payment.

3. Supplemental payments will be issued on a quarterly basis.

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 33:1139 (June 2007).

Frederick P. Cerise, M.D., M.P.H.
Secretary

0706#059

RULE

**Department of Public Safety and Corrections
Liquefied Petroleum Gas Commission**

General Requirements
(LAC 55:IX.Chapters 1 and 15)

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, R.S. 40:1846 and R.S. 3:1354, relative to the authority of the Liquefied Petroleum Gas Commission to make and enforce reasonable rules and regulations governing the storage, sale, and transportation of liquefied petroleum gases and anhydrous ammonia, respectively, the commission has amended 43 existing Sections and adoption of two new Sections. The effective date of these changes and adoptions is July 1, 2007.

Title 55

PUBLIC SAFETY

Part IX. Liquefied Petroleum Gas

Chapter 1. General Requirements

Subchapter A. New Dealers

§103. Definitions

A. ...

* * *

Leak Check—operation performed on a complete gas piping system and connected equipment prior to placing it into operation following initial installation and pressure testing or interruption of gas supply or out-of-gas situation or first time service of a new customer to verify that the system does not leak.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 24:459 (March 1998), LR 29:2508 (November 2003), LR 31:2556 (October 2005), LR 33:1139 (June 2007), effective July 1, 2007.

§105. Applications

A. Any person, firm, or corporation desiring to enter the liquefied petroleum gas business in the state of Louisiana must file formal application for a permit or registration with the Liquefied Petroleum Gas Commission. In the case of Class VI and Class VIII permits a formal application for a permit must be filed for each location. All other classes of permits and registrations require only one formal application for the permit or registration. These applications for permits or registrations will be administratively granted by the office

of the director, upon complying with all commission requirements, such as payment of the applicable fees, qualification of personnel, providing proof of insurance and if applicable, final approval of a sketch, registration and safety inspection of tanker trucks. The Liquefied Petroleum Gas Commission shall ratify the permits or registrations at the first subsequent commission meeting after at least 20 days have elapsed after the permit has been administratively granted by the office of the director. Presence of applicant for the permit or his authorized representative is required at the commission meeting when the application for a permit is ratified, except in the cases of Class VI-X, VII-E, and R-1, R-2 registrations, where appearance is waived. In no case will the applicant's supplier be the authorized representative. Only with special approval of the commission, under extenuating circumstances, will the commission allow the applicant for a permit to be represented by another party other than a principal officer, director, manager, or attorney. The formal application form(s) will be furnished by the commission upon request.

B ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:557 (May 1985), LR 24:460 (March 1998), LR 25:1262 (July 1999), LR 29:2509 (November 2003), LR 31:2567 (October 2005), LR 33:1139 (June 2007), effective July 1, 2007.

§107. Requirements

A. - A.1. ...

2. Formal application for a permit or registration must be submitted to the office of the director.

3. Must have on file in the office of the director, proof of insurance, issued by a Louisiana licensed agent, in the minimum sum of \$1,000,000, in the classes of insurance as required by the commission. This proof of insurance can be a copy of the policy with an endorsement that the insurance company will give at least 10 days notice to the commission before cancellation, or on a commission proprietary certificate of insurance, showing kinds and amount in force, with certificate bearing the clause that in the event the insurance company intends to cancel, the insurance company will notify the director of the Liquefied Petroleum Gas Commission 10 days prior to the date of cancellation or a binder of insurance coverage, within date, will be acceptable as proof of insurance until the policy or proprietary certificate of insurance can be issued. The commission will provide the proprietary certificate of insurance form on its public web site for downloading or will provide copies of the proprietary certificate of insurance form via facsimile or via U. S. mail upon request.

3.a. - 8.b. ...

c. The following shall be mandatory training requirements in order to maintain a certificate of competency in Louisiana.

i. New Hires

(a). Certified Employee Training Program (CETP) shall be the basis of all new hire training, which is not grandfathered.

(b). In addition to the regular Liquefied Petroleum Gas Commission competency test which is

required prior to beginning work unsupervised, all certificates of competency holders of Class 1 permit holders with certificates of competency with the following names, delivery truck driver, installation and service, and delivery truck driver/limited service must pass the CETP Basic Test within one year of their hire date. Up to two years provisional certificates of competency may be issued by the commission. Other commission certificates of competency, namely serviceman recreational vehicles, transport truck driver, motor fuel and carburetion installation, welding and metal working industry, manager exam, cylinder delivery truck driver, cylinder re-qualification, and all combined certificates containing the immediate before named certificates of competency are exempt from this provision.

(c). Training may be given by the individual companies or may be given by an outside firm and individual companies may use any method they choose to train their employees on the CETP Basic Program. This may include, but is not limited to, e-learning, CDs, manuals, classroom instruction or any combination thereof.

(d). The CETP Basis Test must be proctored by a licensed proctor.

(e). Tests will be available not less than two times each year in each commission inspector's area in a centralized location.

(f). All commission inspectors shall be licensed proctors with no costs being charged for their proctoring of tests.

(g). Proof of a passing grade (certification) must be sent to the Liquefied Petroleum Gas Commission by the employer before the second renewal period of the employee's certificate of competency. Failure to do so will require that the individual's certificate of competency be revoked.

(h). Individuals who have held a certificate of competency with the commission five years or longer are exempt from the CETP Basic new hire provision, however, they must meet the continuing education training provisions.

ii. Continuing Education

(a). Individuals with a commission certificate of competency in the following test names: transfer and cylinder filling operator, delivery truck driver, installation and service, welding and metal working industry, cylinder delivery truck driver, delivery truck driver/limited service, and all combined certificates containing any of the immediate before named certificates of competency shall have a minimum of two hours of approved continuing education every three years in order to maintain their certificates of competency.

(b). This training shall include training that is most tailored for the particular functions the employee does on a normal and routine basis. This may include CETP modular training classes, defensive driving classes, equipment certification classes, pipe sizing classes, leak check classes and other similar training pre-approved and assigned credit time by the Liquefied Petroleum Gas Commission.

(c). All training approved by the commission must be in objective format such as written, video with audio, or audio only. Each training class will be assigned credit time value for meeting time requirements of this Section.

(d). This training may be done in-house by the dealer, by out-side sources, or by commission inspectors.

(e). A Liquefied Petroleum Gas Commission inspector will be responsible for administering continuing education training tests in his area. These tests may be administered at centralized group locations or at dealer locations within the inspector's area. The inspector shall determine passing either through oral exam or written exam on the pre-approved subject matter.

iii. Effective Time of Provisions of §107.A.8.c

(a). Shall be upon effective date of enactment of this Section.

9. - 10. ...

11. Applicants for change of name must deposit a filing fee of \$25 with a formal application for a name change. The office of the director will administratively grant the name change after all commission requirements are met. The commission will ratify the name change at the next subsequent after which a minimum of 20 days have elapsed since the administrative granting of the name change. A representative of the new firm or corporation will be required to be present when the application is ratified by the commission, except in the cases of Class VI-X, VII-E, and R-1 and R-2 registrations, when appearance is waived. All certificates of competency must be changed to new name, except Class VI-X which does not require certificates of competency.

12. - 15. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, LR 1:315 (July 1975), LR 4:86 (March 1978), LR 7:633 (December 1981), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:557 (May 1985), LR 15:854 (October 1989), LR 16:1063 (December 1990), LR 20:1400 (December 1994), LR 24:461 (March 1998), LR 24:2311 (December 1998), LR 25:1262 (July 1999), LR 25:2410 (December 1999), LR 26:1487 (July 2000), LR 27:2256 (December 2001), LR 28:2553 (December 2002), LR 29:2509 (November 2003), LR 31:2567 (October 2005), LR 33:1140 (June 2007), effective July 1, 2007.

§113. Classes of Permits and Registrations

A. - A.1. ...

a. Must furnish evidence of general liability insurance in the minimum sum of \$1,000,000 covering:

- i. products;
- ii. manufacturers and contractors; and
- iii. automobile liability.

b. - f. ...

2. Class II. Holders of these permits may install and service liquefied petroleum gas containers, piping, and appliances but shall not sell nor deliver gas with this permit. This class will also apply to the installation and service of liquefied petroleum gas containers, piping, and appliances on mobile homes, motor homes, travel trailers, or any other recreational vehicles.

a. Holders of these permits must furnish evidence of general liability insurance in the minimum sum of \$1,000,000 covering:

- i. products;
- ii. manufacturers and contractors; and
- iii. automobile liability.

b. Louisiana manufacturers and dealers of mobile homes, motor homes, travel trailers, or any recreational vehicles shall comply with all state and federal safety standards and perform all safety tests on mobile homes, motor homes, travel trailers, or any recreational vehicles using liquefied petroleum gas.

c. Upon delivery of a mobile home, motor home, travel trailer, or any other recreational vehicle, new or used, the required installation report and inspection and testing of any liquefied petroleum gas system and appliances shall be performed by the dealer or any entity performing functions as a dealer, using liquefied petroleum gas in the system. An installation report properly completed and signed by the customer or his/her authorized representative must be sent to the director of the Liquefied Petroleum Gas Commission verifying that the tests were performed and that the test was eye witnessed by the customer or his/her authorized representative.

d. The mobile home or recreational vehicle dealer or entity performing functions as a dealer must have a permit with this commission and is responsible to this commission to make the required installation report, perform the required inspection and safety tests, or make arrangements for it to be made by a qualified permit holder.

2.e. - 3.

a. Holders of these permits must furnish evidence of general liability insurance in the minimum sum of \$1,000,000 covering:

- i. products;
- ii. manufacturers and contractors; and
- iii. automobile liability.

3.b. - 4. ...

a. Must furnish evidence of general liability insurance in the minimum sum of \$1,000,000 covering:

- i. products;
- ii. manufacturers and contractors; and
- iii. automobile liability.

4.b. - 5. ...

a. Holders of these permits must furnish evidence of general liability insurance in the minimum sum of \$1,000,000 covering manufacturers and contractors liability.

5.b. - 6. ...

a. Holders of these permits must furnish evidence of general liability insurance in the minimum sum of \$1,000,000 covering products liability.

6.b. - 7. ...

a. Holders of these permits must furnish evidence of general liability insurance in the minimum sum of \$1,000,000 covering products liability.

7.b. - 8. ...

a. Holders of these permits must furnish evidence of general liability insurance in the minimum sum of \$1,000,000 covering automobile liability.

8.b. - 9. ...

a. Holders of these permits must furnish evidence of general liability insurance in the minimum sum of \$1,000,000 covering automobile liability.

9.b. - 10. ...

a. Holders of these permits must furnish evidence of general liability insurance in the minimum sum of \$1,000,000 covering products, manufacturers and contractors, and automobile liability.

10.b. - 11.a.

b. Holders of these permits must furnish evidence of general liability insurance in the minimum sum of \$1,000,000 covering products liability.

11.c. - 12. ...

a. Holders of these permits must furnish evidence of general liability insurance in the minimum sum of \$1,000,000 covering manufacturers and contractors liability.

12.b. - 13. ...

a. Holders of these permits must furnish evidence of general liability insurance in the minimum sum of \$1,000,000 covering products and manufacturers and contractors liability.

b. - c.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended and promulgated LR 3:315 (July 1977), amended LR 7:633 (December 1981), LR 8:53 (January 1982), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:557 (May 1985), LR 12:841 (December 1986), LR 15:855 (October 1989), LR 16:1063 (December 1990), LR 19:904 (July 1993), LR 20:1400 (December 1994), LR 21:704 (July 1995), LR 24:461 (March 1998), LR 25:2411 (December 1999), LR 29:2509 (November 2003), LR 33:1141 (June 2007), effective July 1, 2007.

Subchapter F. Tank Trucks, Semi-Trailers and Trailers

§167. "Out-of-Gas Customers" or Interruption of Service Procedure

A. When a delivery of gas is made to any on-site container which is out of gas or liquefied petroleum gas service was interrupted, the servicing dealer shall follow the following procedure.

1. When "out-of-gas customer" is not present and the container is serviced:

- a. shut off the container service valve;
- b. place a tag on the container and the residence, the building, or the equipment the container services indicating the container is out-of-service. The tag shall inform the gas customer to contact a liquefied petroleum gas dealer or other qualified agency to perform a leak check or test on the system as required before turning on the container. Further action is the responsibility of the customer. If the customer places the system back into service without the required test, he must assume the liability for the system.

2. When "out-of-gas customer" is present and the container is serviced:

- a. shut off the container service valve;
- b. inform the gas customer the container is out of service and a qualified agency must perform a leak check or test on the system as required before turning on the container. Further action is the responsibility of the customer. If the customer places the system back into service without the required test, he must assume liability for the system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 20:1403 (December 1994), amended LR 24:467 (March 1998), LR 33:1142 (June 2007), effective July 1, 2007.

Subchapter G. Systems Utilizing ASME and D.O.T. Containers

§171. Storage Capacity Requirements

A. The minimum capacity of above ground ASME storage containers shall be 100 gallon tank capacity for each 100,000 BTU appliance load. Tankless water heaters shall be rated at 50 percent of their input rating when calculating appliance load. Exception: D.O.T. Containers of 4 lbs. though 100 lbs. capacity are exempt from this requirement when connected to small portable appliances or outdoor cooking appliances with input ratings of 100,000 btu/hr. or less. Other exceptions to this rule must be approved by the director.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 20:1403 (December 1994), amended LR 33:1142 (June 2007), effective July 1, 2007.

§173. Regulator Installation

A. A two-stage regulator or an integral two-stage regulator shall be required on all fixed piping systems that serve 1/2 psi appliance systems (11 in. w.c.). Single-stage regulators shall not be installed in fixed piping systems after June 30, 1997. Other requirements of NFPA 58, 1995 Edition, Section 3-2.6, as well as exceptions are applicable in Louisiana. Two-stage regulation shall not be retroactive to June 30, 1997. Exception: Not applicable to D.O.T. containers connected to small portable appliances and outdoor cooking appliances with input ratings of 100,000 btu/hr. or less.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 20:1403 (December 1994), amended LR 24:468 (March 1998), LR 33:1142 (June 2007), effective July 1, 2007.

§175. Pressure Tests, Leak Checks and Inspections Required

A. Pressure Tests

1. Shall be performed on all new piping systems and on piping systems that has been modified or had new piping added.

2. The length of time of the pressure test shall be not less than 1/2 hour for each 500 cubic feet of pipe volume or fraction thereof, except when pressure testing less than 10 cubic feet of pipe volume or a single family dwelling, the duration of the test may be reduced to 10 minutes.

3. The test pressure of the Pressure Test shall be 1 1/2 times the proposed operating pressure of the system but in no case less than 3 psig.

4. There shall be no gain or loss in pressure during the test. If leakage is indicated, the system shall be repaired and a new pressure test performed before placing in service.

5. The pressure source shall be isolated before the test.

6. No underground piping shall be covered until after inspection and the pressure test are made.

7. Pressure tests shall be documented in the dealer's files or filed with office of the director of the commission.

B. Leak Checks

1. Low Pressure Leak Checks

a. Shall be used on systems that receive gas at pressures of 1/2 psig or less.

b. Shall be performed the first time a tank, piping system and appliances are connected for use.

c. Shall be performed in any suspected leak situation.

d. Shall be performed the first-time service of a new customer.

e. Shall be performed in all out-of-gas and interruption of service situations. A High Pressure Leak Check will be permitted in lieu of the Low Pressure Leak Check if the dealer has documented in his files a Low Pressure Leak Check within the past 12 months for that customer or has filed such documentation with the office of the director within the past 12 months for that customer.

f. The length of time for this test shall be 3 minutes.

g. The test pressure for this test shall be 9 inches + or - 1/2 inch of water column or equivalent.

h. Low Pressure Leak Checks shall be documented in the dealer's files or filed with the office of the director of the commission.

i. This leak check shall include all regulators, including appliance regulators and control valves in the system. Accordingly each individual equipment shutoff valve should be supplying pressure to its appliance for this leak check. This leak check will prove the integrity of the 100 percent pilot shutoff of each gas valve so equipped, so the manual gas cock of each gas valve incorporating a 100 percent pilot shutoff should be in the "on" position. Pilots not incorporating a 100 percent pilot shutoff valve and all manual gas valves not incorporating safety shutoff systems are to be placed in the "off" position prior to this leak check.

j. When leakage is indicated, repairs must be made and a new leak check performed before placing the system back into service.

k. The following protocol shall be used for performing this leak check. Insert a water manometer or equivalent gauge into the system downstream of the final stage regulator, pressurizing the system with either fuel gas or another approved test medium to full operating pressure, close pressure service valve, observe gauge reading, lockup, should be between 10-14 inches of water column or equivalent, then release enough test medium through a range burner or other suitable means to drop the system pressure to 9 inches + or -1/2 inch in water column or equivalent. This ensures that all regulators are unlocked and the entire system is communicating to the gauging device. There shall be no loss or gain in pressure for a period of three minutes.

2. High Pressure Leak Checks

a. This leak check can be used on a system that receives gas at 1/2 psig or less, when a Low Pressure Leak Check has been performed and documented within the past twelve months by the dealer for that system.

b. This leak check can be used on systems that receive gas at pressures greater than 1/2 psig but less than tank pressure.

c. The length of time for this leak check is 3 minutes.

d. The test pressure for this leak check is 10 pounds below tank pressure.

e. These tests shall be documented in the dealer's files or filed with the office of the director.

f. When leakage is indicated, repairs shall be made and a new leak check performed before placing the system into service.

g. The following protocol shall be used for this leak check. By inserting a pressure gauge between the container gas shutoff valve and the first stage regulator in the system, admitting full container pressure to the system and then closing the container shutoff valve. Enough gas should then be released to lower the pressure reading by 10 psi. System should then be allowed to stand for 3 minutes without an increase or decrease in the pressure gauge reading. This method will indicate if there is an open line, open valve, a standing pilot open or leak anywhere in the system and can be used only under the conditions stated in §175.B.2.a of this Section.

3. In out-of-gas or interruption of service situations and a leak check can not be performed by the dealer, the procedure in §167 of this Code shall be used or the container cannot be serviced.

C. Inspections

1. Inspections shall be performed any time a pressure test, a high pressure leak check, or a low pressure leak check is performed. Exception: if the dealer has documented in his files an inspection of the system within the past 12 months for that system or has filed such documentation with the office of the director within the past 12 months for that system, no inspection is required.

2. Inspection shall include installation workmanship, all visible piping materials, connectors, appliances and other materials to ensure all materials, connectors, valves and appliances are approved for liquefied petroleum gas use.

3. Inspection shall include proper appliance installation and proper flame performance characteristics for the appliances.

4. Any materials, connectors, valves, appliances, or installation workmanship not in compliance with the codes shall be repaired, replaced, or disconnected.

5. Documentation that the inspection was performed shall be made by the dealer and retained in his files or filed with the office of the director.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 20:1403 (December 1994), amended LR 24:468 (March 1998), LR 24:2312 (December 1998), LR 29:2510 (November 2003), LR 33:1142 (June 2007), effective July 1, 2007.

Chapter 15. Sale, Storage, Transportation and Handling of Anhydrous Ammonia

NOTE: This Chapter applies specifically to the sale, storage, handling, and transportation of anhydrous ammonia over Louisiana highways and the sale, construction and use of anhydrous ammonia containers and equipment.

Subchapter A. New Dealers

§1505. Applications

A. Any person, firm, or corporation desiring to enter the anhydrous ammonia business in the state of Louisiana must file formal application for a permit with the Liquefied Petroleum Gas Commission. These applications for permits will be administratively granted by the office of the director

upon complying with all commission requirements, such as payment of the applicable fees, qualification of personnel, providing proof of insurance and if applicable, final approval of a sketch, registration and safety inspection of tanker trucks. The Liquefied Petroleum Gas Commission shall ratify the permits at the first subsequent commission meeting after at least 20 days have elapsed after the permit has been administratively granted by the office of the director. Presence of applicant for the permit or his authorized representative is required at the commission meeting when the application for a permit is ratified. In no case will the applicant's supplier be the authorized representative. Only with special approval of the commission, under extenuating circumstances, will the commission allow the applicant for a permit to be represented by another party other than a principal officer, director, manager, or attorney. The formal application form(s) will be furnished by the commission upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1354.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Anhydrous Ammonia Commission (January 1967), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 19:898 (July 1993), LR 33:1143 (June 2007), effective July 1, 2007.

§1507. Requirements

A. - A.1. ...

2. Formal application for a permit must be submitted to the office of the director.

3. Must have on file in the office of the director proof of insurance, issued by a Louisiana licensed agent, in the minimum sum of \$1,000,000, in the classes of insurance as required by the commission. This proof of insurance can be a copy of the policy with an endorsement that the insurance company will give at least 10 days notice to the commission before cancellation, or on a commission proprietary certificate of insurance, showing kinds and amount in force, with certificate bearing the clause that in the event the insurance company intends to cancel, the insurance company will notify the director of the Liquefied Petroleum Gas Commission 10 days prior to the date of cancellation, or a binder of insurance coverage, within date, will be acceptable as proof of insurance until the policy or proprietary certificate of insurance can be issued. The commission will provide the proprietary certificate of insurance form on its public web site for downloading or will provide copies of the proprietary certificate of insurance form via facsimile or via U. S. mail upon request.

4. - 10. ...

11. Applicants for change of name must deposit a filing fee of \$25 with a formal application for a name change. The office of the director will administratively grant the name change after all commission requirements are met. The commission will ratify the name change at the next subsequent commission meeting after which a minimum of 20 days have elapsed since the administrative granting of the name change. A representative of the new firm or corporation will be required to be present when the application is ratified by the commission. All certificates of competency must be changed to new name.

12. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1354.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Anhydrous Ammonia Commission (January 1967), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 19:898 (July 1993), LR 25:2413 (December 1999), amended LR 27:423 (March 2001), repromulgated LR 27:565 (April 2001), amended LR 33:1144 (June 2007), effective July 1, 2007.

§1513. Classes of Permits

A. The Liquefied Petroleum Gas Commission will issue upon application the following classes of permits:

1. Class A1. Holders of these permits may enter any phase of the anhydrous ammonia business.

a. Must file formal application for a permit with the Liquefied Petroleum Gas Commission. These applications for permits will be administratively granted by the office of the director, upon complying with all commission requirements, such as payment of the applicable fees, qualification of personnel, providing proof of insurance and if applicable, final approval of a sketch, registration and safety inspection of tanker trucks. The Liquefied Petroleum Gas Commission shall ratify the permits at the first subsequent commission meeting after at least 20 days have elapsed after the permit has been administratively granted by the office of the director. Presence of applicant for the permit or his authorized representative is required at the commission meeting when the application for a permit is ratified. In no case will the applicant's supplier be the authorized representative. Only with special approval of the commission, under extenuating circumstances, will the commission allow the applicant for a permit to be represented by another party other than a principal officer, director, manager, or attorney. The formal application form(s) will be furnished by the commission upon request.

b. ...

c. Holders of these permits must furnish evidence of general liability insurance in the minimum sum of \$1,000,000 covering:

- i. products;
- ii. manufacturers and contractors; and
- iii. automobile liability.

1.d. - 2. ...

2.a. Must file formal application for a permit with the Liquefied Petroleum Gas Commission. These applications for permits will be administratively granted by the office of the director, upon complying with all commission requirements, such as payment of the applicable fees, qualification of personnel, providing proof of insurance and if applicable, final approval of a sketch, registration and safety inspection of tanker trucks. The Liquefied Petroleum Gas Commission shall ratify the permits at the first subsequent commission meeting after at least 20 days have elapsed after the permit has been administratively granted by the office of the director. Presence of applicant for the permit or his authorized representative is required at the commission meeting when the application for a permit is ratified. In no case will the applicant's supplier be the authorized representative. Only with special approval of the commission, under extenuating circumstances, will the commission allow the applicant for a permit to be represented by another party other than a principal officer, director, manager, or attorney. The formal application form(s) will be furnished by the commission upon request

b. ...

c. Holders of these permits must furnish evidence of general liability insurance in the minimum sum of \$1,000,000 covering products, manufacturers and contractors, and automobile liability.

2.d. - 3. ...

a. Must file formal application for a permit with the Liquefied Petroleum Gas Commission. These applications for permits will be administratively granted by the office of the director, upon complying with all commission requirements, such as payment of the applicable fees, qualification of personnel, providing proof of insurance and if applicable, final approval of a sketch, registration and safety inspection of tanker trucks. The Liquefied Petroleum Gas Commission shall ratify the permits at the first subsequent commission meeting after at least 20 days have elapsed after the permit has been administratively granted by the office of the director. Presence of applicant for the permit or his authorized representative is required at the commission meeting when the application for a permit is ratified. In no case will the applicant's supplier be the authorized representative. Only with special approval of the commission, under extenuating circumstances, will the commission allow the applicant for a permit to be represented by another party other than a principal officer, director, manager, or attorney. The formal application form(s) will be furnished by the commission upon request.

b. ...

c. Holders of these permits must furnish evidence of general liability insurance in the minimum sum of \$1,000,000 covering products liability.

3.d. - 4. ...

a. Must file formal application for a permit with the Liquefied Petroleum Gas Commission. These applications for permits will be administratively granted by the office of the director, upon complying with all commission requirements, such as payment of the applicable fees, qualification of personnel, providing proof of insurance and if applicable, final approval of a sketch, registration and safety inspection of tanker trucks. The Liquefied Petroleum Gas Commission shall ratify the permits at the first subsequent commission meeting after at least 20 days have elapsed after the permit has been administratively granted by the office of the director. Presence of applicant for the permit or his authorized representative is not required at the commission meeting when the application for a permit is ratified. The formal application form(s) will be furnished by the commission upon request.

b. ...

c. Holders of these permits must furnish evidence of general liability insurance in the minimum sum of \$1,000,000 covering products and automobile liability.

4.d. - 5. ...

a. Must file formal application for a permit with the Liquefied Petroleum Gas Commission. These applications for permits will be administratively granted by the office of the director, upon complying with all commission requirements, such as payment of the applicable fees, qualification of personnel, providing proof of insurance and if applicable, final approval of a sketch, registration and safety inspection of tanker trucks. The Liquefied Petroleum Gas Commission shall ratify the permits at the first

subsequent commission meeting after at least 20 days have elapsed after the permit has been administratively granted by the office of the director. Presence of applicant for the permit or his authorized representative is required at the commission meeting when the application for a permit is ratified. In no case will the applicant's supplier be the authorized representative. Only with special approval of the commission, under extenuating circumstances, will the commission allow the applicant for a permit to be represented by another party other than a principal officer, director, manager, or attorney. The formal application form(s) will be furnished by the commission upon request.

5.b. - c. ...

d. Holders of these permits must furnish evidence of general liability insurance in the minimum sum of \$1,000,000 automobile liability.

5.e. - 6. ...

a. must file formal application for a permit with the Liquefied Petroleum Gas Commission. These applications for permits will be administratively granted by the office of the director, upon complying with all commission requirements, such as payment of the applicable fees, qualification of personnel, providing proof of insurance and if applicable, final approval of a sketch, registration and safety inspection of tanker trucks. The Liquefied Petroleum Gas Commission shall ratify the permits at the first subsequent commission meeting after at least 20 days have elapsed after the permit has been administratively granted by the office of the director. Presence of applicant for the permit or his authorized representative is not required at the commission meeting when the application for a permit is ratified. The formal application form(s) will be furnished by the commission upon request;

b. - c. ...

d. holders of these permits must furnish evidence of general liability insurance in the minimum sum of \$1,000,000 covering automobile liability.

e. - j. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1354.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Anhydrous Ammonia Commission (January 1967), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 19:899 (July 1993), LR 25:2413 (December 1999), amended LR 27:423 (March 2001), repromulgated LR 27:565 (April 2001), LR 33:1144 (June 2007), effective July 1, 2007.

Charles M. Fuller
Director

0706#012

RULE

Department of Social Services Rehabilitation Services

State Personal Assistance Services Program
(LAC 67:VII.Chapter 11)

In accordance with the provisions of R.S. 49:953(B) of the Administrative Procedure Act, the Department of Social Services, Louisiana Rehabilitation Services (LRS), has revised Chapter 11. Revisions to the policy manual were

made to provide more flexibility in the program with regard to eligibility and service hours, and to revise the name of the Personal Care Assistance Program to State Personal Assistance Services Program.

Title 67

SOCIAL SERVICES

Part VII. Rehabilitation Services

Chapter 11. State Personal Assistance Services Program

§1101. Mission

A. General Statement. The Legislature of Louisiana recognizes the right of people with significant physical disabilities to lead independent and productive lives and further recognizes that persons with significant disabilities require personal assistance to meet tasks of daily living and, in many cases to avoid costly institutionalization. The creation of the State Personal Assistance Services Program, hereafter referred to as the SPAS Program, is to provide state personal assistance services to persons with significant disabilities in order to support and enhance their employability and/or to avoid inappropriate and unnecessary institutionalization. The mission of the SPAS Program is to provide for an orderly sequence of services to those persons who are determined eligible for the program.

B. Program Administration. The Department of Social Services, through Louisiana Rehabilitation Services (LRS), is responsible for the administration of the SPAS Program.

C. The Manual's Function. This manual sets forth the policies of LRS in carrying out the agency's mission, specifically as this mission relates to the SPAS Program.

D. Exceptions. The secretary or secretary's designee shall have the sole responsibility for any exceptions to this policy manual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), repromulgated LR 19:1436 (November 1993), amended LR 33:1146 (June 2007).

§1103. Enabling Legislation

A. Louisiana Revised Statutes

1. Act 653, Chapter 27-A of Title 46 of the Louisiana Revised Statutes of 1950, comprising R.S. 46:2116 through 2116.5 relative to PCA services for individuals with significant disabilities.

2. Act 617 of the 2006 Legislative Session amending R.S. 46:2116, 2116.1(2),(3)(intro para), (3)(e) and (5), 2116.2(A) and (B)(1), (2), (3) and (4), (C)(intro para) and (C)(1) and (2), 2116.3(A), 2116.5(A) and (D).

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), amended LR 19:1437 (November 1993), LR 33:1146 (June 2007).

§1105. Definitions

A. The following terms, when used in this manual, shall have the meaning, unless the context clearly indicates otherwise.

Consumer-Directed—the consumer/recipient of personal assistance services, as provided by the SPAS Program, will direct, supervise, hire and discharge his/her personal attendant.

Contractor/Fiscal Agent—service provider(s).

Department—the Department of Social Services.

Evaluation Team—the individuals who determine the eligibility of individuals with significant disabilities for state personal assistance services and shall be designated by the Director of Louisiana Rehabilitation Services.

Individual with Significant Disabilities—an individual with loss of sensory or motor functions interfering with activities of daily living to the extent that the person requires assistance with non-medical personal care needs, domestic or cleaning needs, dressing and undressing, moving into and out of bed, transferring, ambulation, related services including but not limited to meal preparation, laundry, and grocery shopping, and other similar activities of daily living.

PA—personal assistance.

Secretary—the Secretary of the Department of Social Services.

State Personal Assistance Services (SPAS) Program—services which are required by individuals with significant disabilities between 18 and 60 years of age to achieve greater physical independence and which include but are not limited to services related to:

- a. routine bodily functions, such as bowel or bladder care;
- b. dressing;
- c. preparation and consumption of food;
- d. housecleaning and laundry;
- e. moving in and out of bed; transferring;
- f. routine bathing;
- g. ambulation;
- h. any other similar activity of daily living.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), amended LR 19:1437 (November 1993), LR 33:1146 (June 2007).

§1107. General Requirements

A. - A.2. ...

B. Compliance with State Laws, Federal Laws and Regulations, and Departmental Policies and Procedures. Staff involved in the SPAS Program shall comply with all state and federal laws, including Department of Social Services, LRS policies and procedures and Civil Service rules and regulations as applicable.

C. Cost-Effective Service Provision. State personal assistance services shall be provided in a cost effective manner without supplanting any existing personal assistance services.

D. Case File Documentation. All SPAS Program contractors/fiscal agents must maintain a case file for each SPAS Program consumer/recipient. The case file shall contain documentation to support the decision to provide, deny, or amend services. Documentation of the amounts and dates of each service provided to support all claims for reimbursement must also be included in the case file.

E. - F. ...

G. Hiring/Firing/Supervising. State personal assistance services as provided by the SPAS Program are to be consumer-directed at all times. The consumers of the SPAS Program shall direct, supervise, hire and discharge his/her personal assistance service provider in accordance with the fiscal agent's process. The personal assistance service consumer/recipient will report to the fiscal agent/contractor

all new hire/discharge actions within three working days of the occurrence in accordance with the fiscal agent's process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), repromulgated LR 19:1437 (November 1993), amended LR 33:1146 (June 2007).

§1109. Confidentiality

A. General Statement. All personal information in the possession of the fiscal agent shall be used only for purposes directly connected with the administration of the program.

B. Notification to Consumer/Recipients. Individuals asked to supply information for the fiscal agent shall be informed of the need to collect confidential information and the policies governing its use, release, and access, including:

1. the confidentiality of information provided in the case file must contain documentation that the individual has been advised of the confidentiality of information pertinent to his/her case;

2. the principal purpose for which the fiscal agent intends to use or release the requested data;

3. whether they may refuse or are legally required to supply the requested data;

4. any known consequence arising from not providing requested information will be deemed ineligible for the program;

5. the identity of other agencies to which information is routinely released.

C. Release of Confidential Information. The case file must contain documentation concerning any information released with the individual's written consent where needed. Informed written consent is not needed for the release of personal records in the following condition. The consumer/recipient must be advised of this condition:

1. - 3. ...

D. Consumer/Recipient Access to Data. When requested in writing by the consumer/recipient or his representative, consumers/recipients or applicants have the right to see and obtain in a timely manner copies of any information that the fiscal agent maintains on them, including information in their case files, except:

1. medical and/or psychological information, when the service provider states in writing that disclosure to the individual would be detrimental to the consumer/recipient's physical or mental health;

2. medical, psychological, or other information which may be harmful to the consumer/recipient.

Note: Such information may not be released directly to the individual, but must be released, with the individual's informed consent, to the consumer/recipient's representative, or a physician or a licensed or certified psychologist.

3. ...

E. Informed Consent. Informed consent means that the consumer/recipient has signed an authorization to release information, which:

1. - 6. ...

F. Court Orders, Warrants and Subpoenas. Subpoenaed case records and depositions are to be handled in the following manner.

1. With the written informed consent of the consumer/recipient, the court will be given full cooperation.

2. Without the written informed consent of the consumer/recipient, when a fiscal agent is subpoenaed for a deposition or receives any other request for information regarding a consumer/recipient, he should:

a. honor the subpoena;

b. take subpoenaed case record or case material to the place of the hearing at the time and date specified on the subpoena;

c. if called upon to testify or to present the case record information, inform the court of the following:

i. that the case record information or testimony is confidential information;

ii. the subpoenaed case record information is in fiscal agency's possession;

iii. fiscal agent personnel will testify and/or release the case record information only if ordered to do so by the court.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), amended LR 19:1437 (November 1993), LR 33:1147 (June 2007).

§1111. Applicant and Consumer/Recipient Appeal Rights

A. Any individual who is aggrieved by a decision with regard to a request for provision of personal assistance services may appeal said decision within 30 days from the date of the letter informing them of the denial decision taken on the SPAS Program application or reduction in services by requesting an informal administrative review. This request must be made in writing to Louisiana Rehabilitation Services, P.O. Box 91297, Baton Rouge, LA 70821-9297. The findings of the informal administrative review must be determined within 30 days from the receipt of the written request. If the individual is dissatisfied with the finding of this informal administrative review, within 10 days from the date of the informal administrative review decision, the request for a fair hearing must be made in writing to Louisiana Rehabilitation Services, P.O. Box 91297, Baton Rouge, LA 70821-9297. The fair hearing must be held within 30 days of receipt of the request. The impartial hearing officer will make a decision based on the provisions of the Louisiana Rehabilitation Services SPAS Policy Manual and the law and provide to the applicant or consumer, or if appropriate, the representative, and the Director of LRS a full written report of the findings and grounds for the decision within 30 days of the completion of the hearing.

B. Services shall remain unchanged during the appeal process until a final decision is reached.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), amended LR 19:1438 (November 1993), LR 33:1147 (June 2007).

§1113. Eligibility and Ineligibility Decisions

A. Nondiscrimination and Nonexclusion. The evaluation team must apply eligibility requirements without regard to sex, race, creed, color or national origin of the individual applying for service.

B. A person can be determined eligible for services as set forth in R.S. 46:2116.2 if that individual meets all of the following criteria:

1. is an individual with significant disabilities; and
2. is between the ages of 18 and 60. An individual who begins to receive services between the ages of 18 and 60 shall continue to receive services after age 60, provided that all other eligibility requirements are met; and
3. needs personal assistance services from this program to prevent or remove the consumer/recipient from inappropriate placement in an institutional setting or enhance the consumer/recipient's employability; and
4. provides verification of the disability from the treating physician; and
5. is capable of hiring, firing, and supervising the persons who provide personal assistance services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), amended LR 19:1439 (November 1993), LR 33:1147 (June 2007).

§1115. Economic Need

A. In determining an individual's financial need for services, Louisiana Rehabilitation Services will use a system based upon the current federal poverty guidelines. The economic need status of each consumer/recipient for the SPAS Program shall be considered in the initial determination of eligibility for services and at least annually thereafter. The consumer/recipient must provide verification of income.

B. The total monthly income of the SPAS applicant and/or spouse shall be considered in determining the amount of available income in the determination of eligibility for services. Current income received on a regular basis must be considered regardless of its source. Sources can include wages, fees, commissions, retainers, rent, interest, dividends, payment for service in cash or kind, benefits by way of pensions, compensation from insurance payments, fellowships, contributions from family or other individuals (including "free" room and board), public assistance payments, alimony and/or payments by roomers/boarders.

C. In determining the amount of available income to the consumer/recipient and/or spouse, the following are exceptions to be used:

1. court-ordered child support and/or alimony (use exact amount);
2. medical expenses, not covered by insurance, which are paid on a monthly basis, as documented by medical statements and/or canceled checks. Examples of monthly expenses are:
 - a. purchase of durable medical equipment;
 - b. repairs to durable medical equipment;
 - c. medication (not covered by insurance);
 - d. surgical supplies (not covered by insurance);
 - e. physician's bills (not covered by insurance);
 - f. hospitalizations (not covered by insurance);
 - g. unreimbursed personal assistance services paid by consumer/recipient;
 - h. payments withheld from wages for:
 - i. taxes;
 - ii. retirement;
 - iii. medical and/or life insurance premiums;
 - i. other unusual obligations to include any emergency needs, or any disability related expenses. Expenditure is to be documented as to total amount owed, for what, and amount of monthly payment.

D. Economic need will be applied using income minus allowed expenses cited above, if applicable.

E. Surplus. The monthly surplus must be applied toward the cost of services each month for the duration of planned services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), amended LR 33:1148 (June 2007).

§1117. Plan for State Personal Assistance Services

A. A state personal assistance services plan is to be developed between the consumer/recipient and the fiscal agent to determine the number of personal assistance hours needed by the consumer/recipient per week. A SPAS plan shall be initiated annually or more often, if indicated. The SPAS plan and all updated plans shall be contained in the consumer/recipient's case record.

B. Consumer/Recipient Participation. The consumer/recipient is to participate fully in the development of the SPAS plan, including all changes and amendments. Consumer/recipient's signature is required for the personal assistance plan and any amendments.

C. Minimum content of the personal assistance plan:

1. identification of specific services to be delivered;
2. the frequency of service(s) with flexibility;
3. the beginning date and service review dates.

D. Amendment of the SPAS Plan. When the consumer/recipient or fiscal agent identifies a need for a change to the original SPAS plan, the consumer/recipient and the fiscal agent shall amend the plan to address the consumer/recipient's need(s). The amended plan shall be submitted to the evaluation team if such changes are markedly different from the original plan.

E. Annual State Personal Assistance Services Plan Review. Every 12 months a review of the SPAS plan is mandatory and shall be reflected on the amended plan. A review can be done before 12 months, if indicated. In all cases, the consumer/recipient shall be involved in any review and/or changes to his/her personal assistance plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), amended LR 19:1439 (November 1993), LR 33:1148 (June 2007).

§1119. Financial

A. Prior Authorization. If an emergency situation exists where personal assistance services is needed to begin prior to the fiscal agent's receipt of written acceptance of consumer/recipient's application for SPAS Program, LRS Program Coordinator for the SPAS Program can provide authorization for services to begin. The fiscal agent must provide documentation in the consumer/recipient's case record confirming verification of the emergency and confirming authorization received from program coordinator. The program coordinator follows up such authorization in writing within five days to the appropriate fiscal agent following such verbal authorization.

B. The consumer/recipient of SPAS will invoice the contractor/fiscal agent bi-monthly in arrears for personal assistance services purchased and include copies of time sheets as verification of the services being provided. The invoice shall contain the following:

1. dates of services;
2. number of hours of personal assistance services per day;
3. rate of pay;
4. signature of personal assistance provider;
5. signature of consumer/recipient of the SPAS Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), amended LR 19:1439 (November 1993), LR 33:1148 (June 2007).

§1121. Contractor/Fiscal Agent Responsibilities

A. The fiscal agent shall keep a waiting list of individuals wanting to apply for the SPAS Program.

B. The fiscal agent shall take a pre-application on consumer/recipients who will be placed on the waiting list for services and shall use criteria developed by Louisiana Rehabilitation Services in assigning a priority category for services.

C. When funds are available; the fiscal agent shall send the pre-application and application on the prioritized individual to the LRS Program Coordinator to forward to the evaluation team for determination or redetermination of eligibility.

D. The fiscal agent shall maintain a case record on each consumer/recipient or pre-application. The case record must include, as a minimum, the pre-application form and, if applicable, a copy of the ineligibility letter, personal assistance plan and all amendments to this plan, documentation from medical and/or other appropriate sources, proof of income, and any other additional material which is a necessary part of the application and/or reconsideration for the SPAS Program.

E. The fiscal agent shall perform reconsideration at least annually on all SPAS Program recipients including a determination of economic need for services. If there is a change in circumstances, a revised personal assistance plan must also accompany the reconsideration which is to be sent to the LRS Program Coordinator who will forward to the evaluation team.

F. The fiscal agent shall make available personal assistance management training to all individuals receiving services under this program. Documentation of training including dates, name of trainer and names of individuals trained should be included in the case record.

G. The fiscal agent shall advise the applicant/consumer/recipient of the evaluation team's decision within five working days from receipt of the team's decision if found eligible for the SPAS Program.

H. The fiscal agent shall maintain copies of the time sheets on the attendants in order to document the number of days and hours worked. Payments for the time worked shall be paid within a reasonable period of time after the invoice is received by the fiscal agent.

I. The fiscal agent shall investigate information brought to the fiscal agent's attention which causes question of continued eligibility. This could include such items as falsification of time sheets, misuse of SPAS Program funds, and any other violation of the policy stated herein. This information shall be provided to the LRS Program Coordinator for disposition. If the information provided is substantiated, this shall be reason for denial of services.

J. The fiscal agent shall provide the consumer/recipient with a copy of the SPAS Program Policy Manual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), amended LR 19:1439 (November 1993), LR 33:1149 (June 2007).

§1123. Evaluation Team Responsibilities

A. The evaluation team shall determine the eligibility of the person with a significant disability for the SPAS Program.

B. The evaluation team will re-evaluate the consumer/recipient of the SPAS Program through annual reviews of the reconsideration and personal assistance plan if applicable to determine the continued need for SPAS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), amended LR 19:1440 (November 1993), LR 33:1149 (June 2007).

§1125. Responsibilities of LRS in the Eligibility

Decision

A. The Director of Louisiana Rehabilitation Services shall designate the evaluation team who determines the eligibility of persons with significant disabilities for State Personal Assistance Services.

B. The Director of Louisiana Rehabilitation Services shall set the criteria for determining prioritization for serving individuals on the waiting list.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), amended LR 19:1440 (November 1993), LR 33:1149 (June 2007).

§1127. Violations, Penalties, and Reasons for Closure

A. The following may result in termination of services or other penalties:

1. the individual no longer meets eligibility criteria;
2. the individual falsified information (time sheets, signed personal assistance provider's name to check and/or time sheets, etc.);
3. the individual failed to meet the contractual agreement with the fiscal agent's requirements;
4. the individual is unable to be contacted and/or whereabouts unknown for 90 days or more and no response after an attempted home visit and certified letter;
5. any other reason which is contradictory to policy and procedures for the SPAS Program.

B. Definitions

Fraud—use of trickery or deceit to receive benefits. For *fraud* to exist:

- a. misrepresentation of fact affecting eligibility, amount of benefits, and/or use of SPAS Program funds. The burden of proof that fraud exists is on the fiscal agent;
- b. the misrepresentation must have been made knowingly and with deceitful intent.

Intentional Program Violation—made a false or misleading statement, or misrepresented, concealed or withheld fact; or committed any act that constitutes a violation of the SPAS Program or SPAS policy and/or procedures. Also, a consumer/recipient who repeatedly fails to comply with the policies and/or procedures of the SPAS Program would be in violation of §1127.

C. Warning. The contractor/fiscal agent should issue a "warning" to consumer/recipients who commit a violation of policy, such as failure to comply with terms of the service plan between the consumer/recipient and fiscal agent. The fiscal agent will determine if the violation was intentional. If the violation is not intentional, written notice of the violation and action to correct the violation is to be given to the consumer/recipient. A copy of the notice to the consumer/recipient is to be placed in the consumer/recipient's case record. Repeat of the violation should be brought to the attention of the LRS Program Coordinator for consideration of termination.

D. Recoupment

1. In lieu of termination, the contractor/fiscal agent can demand that a consumer/recipient refund the SPAS Program for all benefits received because of a violation as listed above.

2. If the contractor/fiscal agent rules that the consumer/recipient must repay the amount in question, the contractor/fiscal agent will determine the repayment schedule. Consumer/recipient can remain eligible as long as recoupment is made and a willingness to comply with policies and procedures set forth in the SPAS Program are shown. The contractor/fiscal agent shall maintain close monitoring of the consumer/recipient until such time the contractor/fiscal agent determines consumer/recipient is complying with the policies and procedures.

3. Recoupment is required from fraudulently received benefits as well; however, the consumer/recipient will not be eligible for further services.

E. Termination. The contractor/fiscal agent may terminate an individual who violates the policy and/or procedures of the SPAS Program. The determination to terminate will be based on the severity of the violation(s) and/or continued violation(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 21:1251 (November 1995), amended LR 33:1149 (June 2007).

§1129. Procedures for Termination and/or Appeals

A. When a consumer/recipient is terminated from this program:

1. the contractor/fiscal agent will send a termination letter to the consumer/recipient that explains the reason and right to an appeal;

2. the contractor/fiscal agent should provide the consumer/recipient with a copy of "Applicant and Consumer/Recipient Appeal Rights" contained in the SPAS Program Policy Manual;

3. if the consumer/recipient appeals, he/she will continue to receive services until the appeals process is completed;

4. the consumer/recipient will be notified when the appeal process is completed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (November,

1993), amended LR 21:1252 (November 1995), LR 33:1150 (June 2007).

Ann Silverberg Williamson
Secretary

0706#057

RULE

**Department of Treasury
Board of Trustees of the Louisiana
State Employees' Retirement System**

Domestic Relations Orders (LAC 58:I:4131)

The Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System ("LASERS") has amended LAC 58:I.4131. The Rule amendment affects participants in the Self-Directed Plan of DROP ("SDP") who have been directed by a court, through a Domestic Relations Order ("DRO"), to divide DROP funds with a former spouse. When LASERS receives a properly worded and accepted DRO, it divides DROP funds accordingly and sets up a second account in the name of the former spouse of the participant, which the former spouse controls. The Rule amendment is designed to minimize the possibility of market losses to those funds belonging to the former spouse in the period between movement into the SDP and transfer of the proper portion into the account of the former spouse. This Rule amendment complies with and is enabled by R.S. 11:451.4 and R.S. 11:515.

Title 58

RETIREMENT

Part I. Louisiana State Employees' Retirement

Chapter 41. Self-Directed Plan

§4131. Domestic Relations Orders

A. In all instances wherein a person participating in the SDP is a party to a Domestic Relations Order ("DRO"), properly worded and approved by LASERS, and such DRO is to divide DROP funds with the participant's former spouse, LASERS shall establish a means whereby the former spouse may choose the investment options for his or her portion of the SDP. Until such time as the portion belonging to the former spouse is placed in a separate SDP account in that person's name, those funds shall remain in a conservative fixed income investment vehicle within the SDP such as a stable value fund.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:451.4 and 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 30:1308 (June 2004), amended LR 33:1150 (June 2007).

Cindy Rougeou
Executive Director

0706#035

RULE

**Department of Treasury
Board of Trustees of the Teachers' Retirement System**

Monthly Salaries and Contributions Report
(LAC 58:III.101)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Trustees of Teachers' Retirement System of Louisiana (TRSL) has amended LAC 58:III.101 regarding the submission requirements for monthly contribution reports and to implement submission requirements for contributions correction reports. These amendments and additions are all in accordance with authority granted the TRSL Board of Trustees in R.S. 11:873(2). The following provisions shall become effective July 1, 2007.

**Title 58
RETIREMENT**

Part III. Teachers' Retirement System of Louisiana

Chapter 1. General Provisions

§101. Mandatory Submission of Monthly Salaries and Contributions Reports and Contributions Correction Reports (Form 4B)

A. Monthly Salaries and Contributions Reports. Each month all employers shall certify to the Board of Trustees, by means of file transfer protocol, diskette, or by on-line web based reporting, the amounts of each employee's salary, and the amounts of deductions from the employee's salary to be paid to the annuity savings fund and then credited to the individual accounts of the employee from whose compensation the deductions were made. All file transfer protocol, diskette, and web based reporting formats must be in compliance with criteria established by Teachers' Retirement System of Louisiana as provided in the Employer Procedures Manual. All certified monthly salaries and contributions reports must be submitted by the fifteenth day of the month following the month covered by the report.

1. All employers with 25 or more employees being reported must submit monthly salaries and contributions reports by file transfer protocol or by diskette.

2. All employers reporting fewer than 25 employees must submit monthly salaries and contributions reports by file transfer protocol, diskette, or Teachers' Retirement System of Louisiana's secure on-line web-based inquiry system.

B. Contributions Correction Reports (Form 4B)

1. All employers must submit Contributions Correction Reports (Form 4B) using Teachers' Retirement System of Louisiana's secure on-line web-based inquiry system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:873(2).

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 22:1242 (December 1996), repromulgated LR 24:499 (March 1998), amended LR 33:1151 (June 2007), effective July 1, 2007.

A. Stuart Cagle, Jr.
Deputy Director

0706#028

RULE

**Department of Treasury
Board of Trustees of the Louisiana
State Employees' Retirement System**

Newly Elected Trustees
(LAC 58:I.301 and 501)

The Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System ("LASERS") has amended LAC 58:I.301 and 501. The Rule amendments affect newly elected trustees and will move the orientation for these new trustees from the board meeting in December to the following month of January. These Rule amendments comply with and are enabled by R.S. 11:511 and 515.

**Title 58
RETIREMENT**

Part I. Louisiana State Employees' Retirement System

Chapter 3. Election of Active Member Trustees

§301. General Schedule of Elections

A. ...

B. The schedule for elections shall be as follows:

1. - 7. ...

8. January following election: newly elected members receive orientation; oaths shall be taken prior to the regular January meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:996 (August 1997), LR 25:1278 (July 1999), LR 26:2633 (November 2000), LR 33:1151 (June 2007).

Chapter 5. Election of Retired Member Trustees

§501. General Schedule of Elections

A. ...

B. The schedule for elections shall be as follows:

1. - 7. ...

8. January following election: newly elected members receive orientation; oaths shall be taken prior to the regular January meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11: 511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:997 (August 1997), LR 25:1278 (July 1999), LR 26:2633 (November 2000), LR 33:1151 (June 2007).

Cindy Rougeou
Executive Director

0706#036

RULE

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Bird Dog Training Areas (LAC 76:V.321)

The Department of Wildlife and Fisheries and Wildlife and Fisheries Commission does hereby amend the rules for bird dog training areas on wildlife management areas.

**Title 76
WILDLIFE AND FISHERIES**

Part V. Wild Quadrupeds and Wild Birds

Chapter 3. Wild Birds

§321. Bird Dog Training Areas

A. Purpose. Bird dog training areas (BDTA) are established to afford users of Wildlife Management Areas (WMA) and other public land an opportunity to train pointing dogs and flushing retrievers or spaniels with live released birds. The BDTA is not intended to serve as a hunting preserve. The following regulations are adopted to ensure that users of the BDTA utilize the area as intended, and to minimize the potential for negative impacts on wildlife.

B. Establishment and Posting. BDTAs may be established on any WMA or other public land with written consent of the managing agency. Portions of the WMA/public land without significant wild quail populations, and where wildlife will not be negatively impacted are suitable for establishment of BDTAs. BDTAs must be marked with signs and/or paint clearly indicating the boundaries.

C. Permits and Licenses. Each party using the BDTA for dog training must include at least one permittee, and the permittee must have a valid permit in his/her possession while engaged in dog training on the BDTA. For purposes of this Rule, a person or party will be considered to be engaged in dog training if they possess or release live bobwhite quail, mallards, or pigeons at any time, or if they are present on the BDTA with pointing dogs, spaniels or retrievers during the time quail, woodcock, dove, or waterfowl season is closed on the WMA/public land. Each BDTA requires a unique permit and permits are valid only on the specific BDTA for which the permit is issued. Permits will not be issued to applicants with Class 2 or higher wildlife violation convictions or guilty pleas within three years of the date of application. All users of the BDTA must comply with the WMA/public land self-clearing permit requirements. Any person who takes or attempts to take released or wild bobwhite quail, mallards, or pigeons on the BDTA must comply with applicable hunting license and WMA/public land permit requirements.

D. Dogs. Only recognizable breeds of pointing dogs, spaniels, and retrievers may be trained on the BDTA. All dogs must wear a collar or tag imprinted with the name and phone number of the owner or trainer. Trainers shall not knowingly allow or encourage their dogs to pursue rabbits, raccoons, or other wildlife.

E. Birds. Only bobwhite quail, mallards, or pigeons may be released for dog training activities on the BDTA. However, use of pigeons and mallards may be prohibited on specific BDTAs. Bobwhite quail, mallards, and pigeons may only be released within the boundaries of the BDTA. Bobwhite quail, mallards, and pigeons may be shot in conjunction with dog training activities. When WMA/public land hunting seasons are closed, only bobwhite quail, mallards, and pigeons may be taken and possessed. When the WMA/public land quail, waterfowl, or woodcock hunting season is closed, bobwhite quail, mallards, and pigeons may only be shot within the boundaries of the BDTA. No more than six quail or mallards per day may be released, taken, or possessed per permittee. For example, a

party consisting of one permit holder and two helpers may not possess, release, or take more than six quail or mallards per day. Wild quail may be taken on the BDTA at any time the BDTA is open to dog training and must be included in the six-bird limit. There is no limit on the number of pigeons that may be taken, released, or possessed. All quail must be marked with a department provided leg band prior to entering the WMA/public land, and if the bird is shot or recaptured, the band must remain on the bird until arrival at the trainer's domicile. All mallards must be toe-clipped or fitted with a seamless band, or otherwise marked in accordance with federal regulations. Wild quail taken on the BDTA must immediately be marked with a LDWF issued band. Pigeons are not required to be banded. Bands will be provided by LDWF when the permit is issued. Persons in possession of live bobwhite quail or mallards must have a valid game breeder's license or bill of sale from a licensed game breeder.

F. Firearms. When the WMA/public land hunting seasons are closed, only shotguns with shells containing shot not larger than Lead Size 8 or Steel Size 6 are permitted on the BDTA. Mallards may only be taken with steel or other approved non-toxic shot. Firearms must be encased or broken down upon entering and leaving the BDTA when the WMA hunting seasons are closed. Pistols capable of firing only blanks are also permitted.

G. Seasons. Unless specified, BDTAs are open to dog training all year. Closure periods may be adopted for some BDTAs. Such closure periods will be listed on each BDTA annual permit.

H. Hunter Orange Requirements. Persons engaged in dog training on BDTAs during WMA hunting seasons must comply with WMA/public land hunter orange requirements.

I. Wildlife Management Area/Public Land Regulations. Except as provided herein, all rules and hunting seasons applicable to the WMA/public land on which the BDTA is located are also applicable to the BDTA. Additional regulations may be adopted for some BDTAs and will be listed on each BDTA annual permit.

J. Violation of Rules. A person who is convicted or enters a guilty plea for violation of any provision of this Rule shall be guilty of a Class 2 violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:109(B), R.S. 56:115, and R.S. 56:141(C).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 31:2268 (September 2005), amended LR 33:1152 (June 2007).

Bryant O. Hammett, Jr.
Secretary

0706#050

RULE

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Possession of Exotics (LAC 76:V.115)

The Wildlife and Fisheries Commission has amended the regulations to control importation and private possession of big exotic cats in Louisiana.

Title 76
WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 1. Wild Quadrupeds

§115. Possession of Potentially Dangerous Wild Quadrupeds, Big Exotic Cats, and Non-Human Primates

A. This commission finds that possession of certain potentially dangerous quadrupeds, big exotic cats, and non-human primates poses significant hazards to public safety and health, is detrimental to the welfare of the animals, and may have negative impacts on conservation and recovery of some threatened and endangered species.

1. The size and strength of such animals in concert with their natural and unpredictable and/or predatory nature can result in severe injury or death when an attack upon a human occurs. Often such attacks are unprovoked and a person other than the owner, often a child, is the victim. Furthermore, there is no approved rabies vaccine for such animals, so even minor scratches and injuries inflicted upon humans or other animals could be deadly.

2. Responsible possession of these potentially dangerous wild quadrupeds, big exotic cats, and non-human primates necessitates that they be confined in secure facilities. Prolonged confinement is by its nature stressful to these animals and proper long-term care by experienced persons is essential to the health and welfare of these animals and to society.

3. Certain of these animals are listed as endangered species and others are so similar in appearance to endangered subspecies as to make practical distinction difficult. This similarity of appearance may provide a means to market illegally obtained endangered animals and can limit the effective enforcement of endangered species laws.

B. This commission regulation prohibits importation and private possession, and otherwise regulates certain wild quadrupeds, big exotic cats, and non-human primates as provided herein.

C.1. Except as provided herein, it shall be unlawful to import into, possess, purchase or sell within the state of Louisiana, by any means whatsoever including but not limited to transactions conducted via the internet, any of the following species or its subspecies of live wild quadrupeds, big exotic cats, or non-human primates, domesticated or otherwise (hereinafter "listed animals"):

- a. black bear (*Ursus americanus*);
- b. grizzly bear (*Ursus arctos*);
- c. polar bear (*Ursus maritimus*);
- d. red wolf (*Canis rufus*);
- e. gray wolf (*Canis lupus*);
- f. wolf dog hybrid (*Canis lupus* or *Canis rufus* x *Canis familiaris*);
- g. all non-human primates;
- h. the following big exotic cats:
 - i. tigers;
 - ii. lions;
 - iii. leopards (including, but not limited to snow leopard and clouded leopard);
 - iv. jaguars;
 - v. cheetahs;
 - vi. cougars or mountain lions (*Felis concolor*);
 - vii. all subspecies of the above listed exotic cats;

viii. hybrids resulting from cross breeding of the above listed exotic cats.

2. Holders of a Potentially Dangerous Wild Quadruped Permit allowing possession of any listed animal, where the permit is valid on the effective date of this regulation, will be "grandfathered" and the permit will be renewed annually until existing permitted captive animals expire, or are legally transferred out of state, or are transferred to a suitable facility. No additional listed animals may be acquired by any means whatsoever, including breeding.

D.1. Wolf-Dog Hybrids. The prohibition against wolf-dog hybrids expired January 1, 1997. Persons are cautioned that local ordinances or other state regulations may prohibit possession of these animals. Any animal which appears indistinguishable from a wolf, or is in any way represented to be a wolf shall be considered to be a wolf in the absence of bona fide documentation to the contrary.

E. Exempted Entities. The following organizations and entities shall be exempt from this regulation, including permitting:

1. zoos accredited or certified by the American Zoo and Aquarium Association (AZA);

2. research facilities as defined in the Animal Welfare Act as found in the United States Code Title 7, Chapter 54, §2132(e), including but not limited to the University of Louisiana at Lafayette Primate Center, the Tulane National Primate Research Center, and Chimp Haven, Inc., located in Shreveport, LA; and

3. any person transporting any listed animal through the state if the transit time is not more than 24 hours and the animal is at all times maintained within a confinement sufficient to prevent escape and contact with the public. Exhibiting the listed animal, in any manner, is prohibited;

4. circuses, limited to those temporarily in this state, offering varied performances by live animals, clowns, and acrobats for public entertainment, and which are incorporated Class C licensees under Chapter I of Title 9 of the Code of Federal Regulations. Notwithstanding the above, circuses do not include entertainment that includes any listed animal in any type of wrestling, photography opportunity with a patron, or an activity in which any listed animal and a patron are in close contact with each other;

5. Louisiana colleges or universities, for possession of a big exotic cat of the species traditionally kept by that college or university as a school mascot, after proper documentation to the department that the college or university has consistently over the years possessed a big exotic cat as its mascot.

F. Permitted Entities. The following organizations and entities may be exempted from this regulation after applying for and receiving a permit from the department to possess any listed animal under the following conditions:

1. other zoos and educational institutions not covered under Paragraphs E.1-2 above. The secretary shall determine whether to issue a permit and any conditions for the permit on a case by case basis;

2. animal sanctuaries accredited or certified by the American Zoo and Aquarium Association (AZA). Permitted sanctuaries are prohibited from exhibiting, breeding, or selling any listed animal. Listed animals must be surgically sterilized or separately housed to prevent breeding. Listed

animals must be housed in such a manner as to prevent public contact and in compliance with the enclosure rules provided herein in Subsection I. Permitted animal sanctuaries are prohibited from transporting these animals to any public building or place where they may come into contact with the public including, but not limited to schools, hospitals, malls, private residences, or other commercial or retail establishments.

G. Non-Human Primates

1. As provided below, the following individuals may be exempted from this regulation after applying for and receiving a permit from the department to possess a non-human primate. The permit will be for one year and must be renewed annually under the following conditions:

a. a physically challenged individual who has exclusive possession of no more than one monkey that is working to aid and assist said individual with his/her disability and where the monkey has been obtained through and trained by a licensed and accredited non-profit organization dedicated to improving the quality of lives for physically challenged;

b. an individual who legally possesses one or more non-human primates immediately prior to the effective date of this regulation and who can prove legal ownership is authorized to keep those non-human primates but is prohibited from acquiring any additional non-human primates by any means whatsoever, including breeding;

c. the individuals listed in this Subsection must annually apply for and receive a permit from the department. The permit application shall include:

i. the name, address, telephone number, and date of birth of applicant;

ii. a description of each non-human primate applicant possesses, including the scientific name, sex, age, color, weight, and any distinguishing marks;

iii. a photograph of each non-human primate and its permanent enclosure;

iv. the physical location where the non-human primate is to be kept;

v. proof of legal ownership. (Proof of legal ownership includes original purchase documents, veterinary records, or other documentation, acceptable to the department demonstrating ownership);

vi. the microchip or tattoo number of each non-human primate;

vii. a health certificate signed by a licensed veterinarian within one year prior to the date of the application stating that the animal is free of all symptoms of contagious and/or infectious diseases at the time of the examination and that all appropriate tests and preventative measures have been performed as deemed necessary by the veterinarian.

2. Permit holders must house their non-human primates in such a manner as to prevent public contact and are prohibited from transporting their non-human primate to any public building or place where the public may come into contact with the non-human primate, including, but not limited to schools, hospitals or malls.

3. Permit holders must have their non-human primates examined annually by a licensed veterinarian to insure that the animal is free of all symptoms of contagious and/or infectious diseases at the time of examination and all

appropriate tests and preventative measures have been performed as deemed necessary by the veterinarian.

4. Permit holders are required to report any escapes to the department within 24 hours of discovery of the escape.

5. Permit holders are required to submit any changes to the permit information provided in the permit application within 30 days of the date those changes take effect or the permit will be considered invalid.

H. Big Exotic Cats. An individual who legally possesses one or more exotic cats listed in Subparagraph C.1.h. above on August 15, 2006 (the effective date of Act 715 of the Regular Session of 2006) and who can prove legal ownership is authorized to keep those exotic cats under the following conditions.

1. Only those exotic cats legally possessed on August 15, 2006 will be permitted. Additional exotic cats cannot be acquired by any means whatsoever, including breeding.

2. The individuals listed in this Subsection must annually apply for and receive a permit from the department. The permit application shall be on a form provided by the department and require:

a. the name, address, telephone number, driver's license number, and date of birth of applicant;

b. a description of each exotic cat applicant possesses, including the scientific name, sex, age, color, weight, and any distinguishing marks;

c. one or more photographs of each exotic cat and its permanent enclosure;

d. the physical location where each exotic cat is to be kept;

e. proof of legal ownership of the exotic cat on August 15, 2006. Proof of legal ownership includes original purchase documents, veterinary records, or other documentation, acceptable to the department, demonstrating ownership;

f. the microchip number of each exotic cat;

g. a health certificate signed by a licensed veterinarian within one year prior to the date of the application. The certificate shall include the name, address, and license number of the examining veterinarian;

h. a written plan for the quick and safe recapture or destruction of an escaped exotic cat listed in the permit. This plan must also be filed with the local sheriff's department, and police department if applicable;

i. statement that permittee has legal authority to possess weapons and/or other equipment necessary to carry out the plan provided in Subparagraph H.2.h;

j. signed agreement, on a form provided by the department, indemnifying and holding harmless the state, department, and other applicable public agencies and employees, including agents, contractors, and the general public from any claims for damages resulting from the permitted exotic cat(s);

k. signed agreement that the permittee will be responsible for any and all costs associated with the escape, capture, and disposition of a permitted exotic cat;

l. proof of liability insurance from an A-rated or higher insurance company in the amount of \$100,000 for each exotic cat, up to a maximum of \$1,000,000, valid and effective continuously for the entire permit term. The policy shall specifically include a provision requiring notice from

the carrier to the secretary of the department a minimum of thirty days prior to cancellation of the policy.

3. Permitted exotic cats must be prevented from breeding by separate housing or sterilization. Sterilization records must be kept on the premises and available for inspection by the department.

4. Permittee or designee must live on the premises. Designee must have the ability to carry out all requirements of the permittee.

5. Department personnel shall be allowed access to inspect the permitted exotic cat(s), facilities, equipment, and records for the purpose of ensuring compliance with these regulations.

6. A weapon capable of destroying the animal(s), and a long range delivery method for chemical immobilization shall be kept on the premises at all times. Additionally, the applicant shall provide a signed statement from a licensed veterinarian identifying a designated veterinarian who will be on-call and available at all times to deliver chemical immobilization in the event of an escape.

7. Clearly legible signs, approved by the department, shall be posted and displayed at each possible entrance onto the premises where the permitted exotic cat is located. The signs shall clearly state "Danger, Wild Animal On Premises" with letters of a size and font easily readable from 30 feet away.

8. Each permitted exotic cat must be implanted with a microchip by or under the supervision of a licensed veterinarian.

9. Each permitted exotic cat must remain in its enclosure on the property listed in the permit at all times and cannot be removed from the enclosure for any reason. However, the exotic cat may be removed for proper medical care for medical emergencies or medical procedures, but only under the direction of a licensed veterinarian.

10. Permittee must notify the department, the local sheriff's department, and police department if applicable, immediately upon discovery that the permitted exotic cat is no longer in its enclosure.

11. Permittee must notify the department prior to any disposition of a permitted exotic cat, including transportation out-of-state. The department reserves the right to supervise and accompany any such disposition.

12. Permitted exotic cats must be kept in a sanitary and safe condition and may not be kept in a manner that results in the maltreatment or neglect of the exotic cat. This includes, but is not limited to:

a. drinking water must be provided in clean containers, pools must be cleaned as needed to ensure good water quality, enclosures must have adequate surface water drainage, and hard floor surfaces must be regularly scrubbed and disinfected;

b. food must be unspoiled and not contaminated, and be of a type and quantity sufficient to meet the nutritional requirements of the permitted exotic cat;

c. fecal and food waste must be removed from enclosures daily and disposed of in a manner that prevents noxious odors and insect and other pests;

d. sufficient shaded areas must be available for each exotic cat that is maintained in an enclosure, regardless of group rank or status.

13. In addition to complying with this regulation, permittee must comply with any and all applicable federal, other state, or local law, rule, regulation, ordinance, permit, or other permission. Failure to comply with any such law, rule, regulation, ordinance, permit, or other permission constitutes a violation of this regulation.

I. Enclosure Requirements—minimum pen/enclosure requirements are as follows.

1. Bears:

a. single animal: 25 feet long x 12 feet wide x 10 feet high, covered roof;

b. pair: 30 feet long x 15 feet wide x 10 feet high, covered roof;

c. materials: chain link 9 gauge minimum;

d. safety perimeter rail;

e. pool: 6 feet x 4 feet x 18 inches deep with facilities for spraying or wetting bear(s).

2. Wolf:

a. 15 feet long x 8 feet wide x 6 feet high per animal, covered roof;

b. secluded den area: 4 feet x 4 feet for each animal;

c. materials: chain link wire or equivalent;

d. safety perimeter rail.

3. Cougar, Mountain Lion:

a. single animal: 10 feet long x 8 feet wide x 8 feet high, covered roof;

b. pair: 15 feet long x 8 feet wide x 8 feet high, covered roof;

c. materials: chain link 9 gauge minimum;

d. safety perimeter rail;

e. claw log;

f. shelf: 24 inch wide x 8 feet long, 40 inches off floor.

4. Big Exotic Cats:

a. enclosures shall be constructed and covered at the top with nine gauge steel chain link or equivalent, with tension bars and metal clamps;

b. enclosures must be well braced and securely fastened to the floor or ground and shall utilize metal clamps or braces of equivalent strength as that proscribed for cage construction;

c. enclosures shall be secured by at least two sets of doors, so that the first door must be closed before the second door is opened. The inside door to the animal enclosure must open in. These doors must remain locked at all times when unattended. The doors must be designed so that the frame, hasps and locks are of sufficient strength to restrain the exotic cat;

d. a perimeter fence of at least 8 feet in height (secondary barrier) and located a minimum of 5 feet from the enclosure sufficient to prevent unauthorized entry or direct physical contact with the exotic cat;

e. the mesh size and/or distance between bars for all enclosures and fences shall be sufficiently small to prevent escape and/or direct physical contact with the exotic cat;

f. enclosures shall include a den area or other connected housing unit in which the exotic cat may be secured for the safe servicing and cleaning of the remaining enclosure. This area shall be constructed with steel, reinforced cinder block, or concrete sufficient to withstand damage from high winds, hard rains, hail, and other natural phenomenon.

J. Penalty for Violation. Unless another penalty is provided by law, violation of these regulations will be a Class Two violation as defined in Title 56 of the Louisiana Revised Statutes. In addition, upon conviction for violation of these regulations, any license/permit may be revoked and the quadrupeds or other animals seized in connection with the violation will be forfeited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(31), R.S. 56:115, R.S. 56:171, and R.S. 56:1904F.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 21:1356 (December 1995), amended LR 32:647 (April 2006), LR 33:1153 (June 2007).

Bryant O. Hammett, Jr.
Secretary

0706#052

RULE

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Reef Fish (LAC 76:VII.335)

The Wildlife and Fisheries Commission has amended LAC 76:VII.335, modifying the recreational take and possession limit for red grouper, establishing a closed season for recreational harvest of gag, black and red grouper, prohibiting captain and crew from for-hire vessels from retaining bag limits of any grouper species while under charter, modifying rules for commercial harvest of red snapper and establishing a permanent trip limit for commercial harvest of groupers, which are parts of the existing rule for daily take, possession, and size limits for reef fishes set by the commission. Authority for adoption of this Rule is included in R.S. 56:6(25)(a), 56:320.2, 56:326.1 and 56:326.3.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishery

§335. Reef Fish—Harvest Regulations

A. Recreational bag limits regarding the harvest of reef fish—triggerfishes, amberjacks, grunts, wrasses, snappers, groupers, sea basses, tilefishes, and porgies, within and without Louisiana's territorial waters.

1. - 3. ...

| | |
|---|---|
| 4. Red hind, rock hind, speckled hind, black red grouper, snowy grouper, yellowedge grouper, yellowfin grouper, yellowmouth grouper, warsaw grouper, gag grouper, scamp | 5 fish per person per day (in aggregate) with not more than 1 speckled hind and 1 warsaw grouper per vessel and with not more than 1 red grouper per person included in the bag limit |
|---|---|

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

C. Charter Vessels and Headboats

1. - 2. ...

3. Captain and crew members shall not harvest or possess grouper of any species while operating as charter vessels and headboats as defined in Federal Regulations 50 CFR Part 622.2—their bag limit is zero for all of these species.

D. Red Snapper

1. All persons aboard a vessel for which no commercial vessel permit for Gulf reef fish has been issued by the National Marine Fisheries Service under the Federal Fishery Management Plan for the Gulf of Mexico Reef Fish resources are limited to the recreational bag limit for red snapper which may not be bartered or sold. No person aboard any vessel shall commercially possess, sell, barter, trade, exchange or attempt to sell, barter trade or exchange red snapper unless possessing a federal permit for the harvest of Gulf of Mexico Reef Fish and a federal red snapper Individual Fishing Quota (IFQ) vessel endorsement.

2. Requirement for IFQ Vessel Endorsement and Allocation: In addition to the federal commercial vessel permit for Gulf reef fish, in order to fish for, possess, or land Gulf red snapper, regardless of where harvested or possessed, a federal Gulf red snapper IFQ vessel endorsement must have been issued to the vessel and be on board. No person shall commercially harvest or land red snapper without holding or being assigned federal IFQ allocation at least equal to the pounds of red snapper landed/docked at a shore side location or off loaded. On the last fishing trip of the year a vessel may exceed by 10 percent the remaining IFQ allocation.

3. No person shall purchase, sell, exchange, barter or attempt to purchase, sell, exchange, or barter any red snapper in excess of any possession limit for which federal commercial license, permit and appropriate allocation were issued.

4. Requirement for IFQ dealer endorsement: In addition to the requirement for a federal dealer permit for Gulf reef fish, for a dealer to receive Gulf red snapper from a commercial fishing vessel he must have a federal Gulf red snapper IFQ dealer endorsement. For a person aboard a vessel with a federal Gulf red snapper IFQ vessel endorsement to sell to anyone other than a permitted dealer, such person must also have a federal Gulf red snapper IFQ dealer endorsement.

5. Requirement for Transaction Approval Code: The owner or operator of a vessel landing red snapper is responsible for calling National Marine Fisheries Service (NMFS) Office of Law Enforcement at least three hours, but no more than 12 hours, in advance of landing to report the time and location of landing and the name of the IFQ dealer where the red snapper are to be received. Failure to comply with this advance notice of landing requirement will preclude authorization to complete the required NMFS landing transaction report and, thus, will preclude issuance of the required NMFS-issued transaction approval code. Possession of commercial red snapper from the time of transfer from a vessel through possession by a dealer is prohibited unless the red snapper are accompanied by a transaction approval code verifying a legal transaction of the amount of red snapper in possession.

6. Offloading and Transfer: No person shall offload from a vessel or receive from a vessel commercially harvested red snapper during the hours from 6 p.m. until 6 a.m., local time. No person who is in charge of a commercial red snapper fishing vessel shall offload red snapper from the vessel prior to three hours after proper notification is made to NOAA Fisheries. At-sea or dockside

transfer of commercial red snapper from one vessel to another vessel is prohibited.

7. VMS requirement: No person shall commercially harvest red snapper from a vessel unless that vessel is equipped with a fully operational and federally approved Vessel Monitoring System (VMS) device. Approved devices are those devices approved by National Oceanographic and Atmospheric Administration (NOAA) Fisheries and operating under the requirements mandated by NOAA Fisheries.

E. - E.13. ...

F. Definitions: Federal regulations 50 CFR Part 622.2 defines charter vessels and headboats as follows.

1. *Charter Vessel*—a vessel less than 100 gross tons that meets the requirements of the U.S. Coast Guard to carry six or fewer passengers for hire and that carries a passenger for hire at any time during the calendar year. A charter vessel with a commercial permit is considered to be operating as a charter vessel when it carries a passenger who pays a fee or when there are more than three persons aboard, including operator and crew.

2. *Headboat*—a vessel that holds a valid Certificate of Inspection issued by the U.S. Coast Guard to carry passengers for hire. A headboat with a commercial vessel permit is considered to be operating as a headboat when it carries a passenger who pays a fee or, in the case of persons aboard fishing for or possessing coastal migratory fish or Gulf reef fish, when there are more than three persons aboard, including operator and crew.

G. Seasons

1. Seasons for the commercial harvest of reef fish species or groups shall be closed within and without Louisiana's territorial waters during the periods listed below. Possession of reef fish in excess of the daily bag limit while on the water is prohibited during the specified closed season. Any reef fish harvested during the closed season shall not be purchased, sold, traded, bartered or exchanged or attempted to be purchased, sold, traded, bartered or exchanged. This prohibition on sale/purchase does not apply to reef fish that were harvested, landed ashore, sold and purchased prior to the closed season. Nothing shall prohibit the possession or sale of fish legally taken prior to the closure providing that all commercial dealers possessing reef fish taken legally prior to the closure shall maintain appropriate records in accordance with R.S. 56:306.5 and R.S. 56:306.6.

| Species or Group | Closed Season |
|-------------------------------|------------------------------|
| a. greater amberjack | March 1 through May 31 |
| b. gag, black and red grouper | February 15 through March 14 |
| c. vermilion snapper | April 22 through May 31 |

2. Seasons for the recreational harvest of reef fish species or groups listed below shall be closed during the periods listed below.

| Species or Group | Closed Season |
|-------------------------------|------------------------------|
| a. gag, black and red grouper | February 15 through March 14 |

3. Persons aboard a vessel for which the permits indicate both charter vessel/headboat for Gulf reef fish and

commercial Gulf reef fish may continue to retain reef fish under the recreational take and possession limits specified in §335.A and §335.C, recreational seasons specified in §335.G.2 and size limits specified in §335.E, provided the vessel is operating as a validly licensed charter vessel or headboat with prepaid recreational charter fishermen aboard the vessel.

4. The provisions of §335.G apply to fish taken within or without Louisiana's territorial waters.

H. Commercial Grouper Trip Limits

1. Those persons possessing a federal commercial vessel permit issued by the National Marine Fisheries Service under the Federal Fishery Management Plan for the Gulf of Mexico Reef Fish resources are limited to a commercial trip limit of 6,000 pounds gutted weight of deep-water and shallow-water grouper per vessel combined, during the open seasons for each of those species groups.

2. When the commercial season for each species or species groups is closed, the commercial trip limit for that species or species group is zero. Effective with any commercial trip or possession limit under this rule, no person shall commercially harvest, possess, purchase, exchange, barter, trade, sell, or attempt to purchase, exchange, barter, trade or sell the affected species or species group, whether taken from within or without Louisiana territorial waters in excess of such established commercial trip or possession limit.

I. Wholesale dealers are required to comply with the provisions of R.S. 56:306.5 and R.S. 56:306.6 when acquiring, purchasing, possessing and selling reef fish. Wholesale dealers shall maintain approval codes issued by NOAA Fisheries associated with all transactions of red snapper on purchases and sales on records.

J. No person who, pursuant to state or federal law, is subject to the jurisdiction of this state shall violate any federal law, rule or regulation particularly those rules and regulations enacted pursuant to the Magnuson-Stevens Fishery Conservation Act and published in the Code of Federal Regulations as amended Title 50 and 15, for reef fishes while fishing in the EEZ, or possess, purchase, sell, barter, trade, or exchange reef fishes within or without the territorial boundaries of Louisiana in violation of any state or federal law, rule or regulation particularly those rules and regulations enacted pursuant to the Magnuson-Stevens Fishery Conservation Act and published in the Code of Federal Regulations as amended Title 50 and 15 law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), 56:320.2(C), 56:326.1, and 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:539 (June 1990), amended LR 19:1442 (November 1993), LR 20:797 (July 1994), LR 21:1267 (November 1995), LR 22:860 (September 1996), LR 24:1138, 1139 (June 1998), LR 24:1972 (October 1998), LR 26:793 (April 2000), LR 26:1505 (July 2000), LR 26:2833 (December 2000), LR 31:3166 (December 2005), LR 33:1156 (June 2007).

Bryant O. Hammett, Jr.
Secretary

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