

# Notices of Intent

## NOTICE OF INTENT

**Department of Agriculture and Forestry  
Forestry Commission  
and  
Department of Revenue  
Tax Commission**

1998 Timber Stumpage Values  
(LAC 7:XXXIX.101)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Forestry Commission, and the Department of Revenue and Taxation, Tax Commission propose to amend rules regarding the value of timber stumpage for calendar year 1998. These rules comply with and are enabled by R.S. 3:3101 et seq.

### Title 7

## AGRICULTURE AND ANIMALS

### Part XXXIX. Forestry

#### Chapter 1. Timber Stumpage

#### §101. Stumpage Values

The Louisiana Forestry Commission and the Louisiana Tax Commission, as required by R.S. 47:633, determined the following timber stumpage values, based on current average stumpage market values, to be used for severance tax computations for 1998.

Trees and Timber	Price/Scale	Price/Ton
1. Pine Sawtimber	\$392.40/MBF	\$49.05/ton
2. Hardwood Sawtimber	\$207.96/MBF	\$21.89/ton
3. Pine Chip and Saw	\$89.53/cord	\$33.16/ton
<b>Pulpwood</b>		
5. Pine Pulpwood	\$25.46/cord	\$9.43/ton
6. Hardwood Pulpwood	\$15.79/cord	\$5.54/ton

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

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Forestry, and the Louisiana Forestry Commission, LR 4:9 (January 1978), amended LR 5:7 (January 1979), LR 6:728 (December 1980), LR 7:627 (December 1981), LR 8:651 (December 1982), LR 9:848 (December 1983), LR 10:1038 (December 1984), LR 11:1178 (December 1985), amended by the Department of Agriculture and Forestry, Office of Forestry, and the Louisiana Forestry Commission, LR 12:819 (December 1986), LR 13:432 (August 1987), LR 14:9 (January 1988), LR 15:5 (January 1989), LR 16:16 (January 1990), LR 17:476 (May 1991), LR 18:6

(January 1992), LR 19:611 (May 1993), LR 20:408 (April 1994), LR 21:930 (September 1995), LR 21:1069 (October 1995), amended by the Louisiana Forestry Commission and Louisiana Tax Commission, LR 22:581 (July 1996), LR 23:943 (August 1997), amended by the Department of Agriculture and Forestry, Forestry Commission, and the Department of Revenue, Tax Commission, LR 24:

All interested persons may submit written comments on the proposed rules through February 25, 1998, to Don Feduccia, Department of Agriculture and Forestry, 5825 Florida Boulevard., Baton Rouge, LA 70806. No preamble concerning the proposed rules is available.

Billy Weaver, Chairman  
Forestry Commission

Malcolm Price, Chairman  
Tax Commission

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: 1998 Timber Stumpage Values

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There will be no additional costs or savings to state or local governments required by the implementation of this action.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
The net result of this action adjusts average stumpage values upward for timber harvested. The severance tax revenue received by state and local governments will increase if 1998 timber production levels equal 1996 production. State revenue would increase by \$200,705 and local government revenues would increase by \$602,114 during fiscal year 97-98, and again in the first half of fiscal year 98-99, based on the assumptions used in this analysis.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
Although the estimated total tax paid by timber sellers and reported and remitted by wood-using industries will increase as a result of this action, the prevailing severance tax rate for timber harvesting remains constant by statute. No increases in paperwork or procedures will result from this action.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
This action is taken on an annual basis and should have negligible effect on competition or employment. The tax revenue increases that may result from the stumpage prices set by this action should have a beneficial effect on parish and state government.

Skip Rhorer  
Assistant Commissioner  
9801#077

Richard W. England  
Assistant to the  
Legislative Fiscal Officer

## NOTICE OF INTENT

### Student Financial Assistance Commission Office of Student Financial Assistance

Tuition Opportunity Program for Students  
(TOPS) (LAC 28:IV.Chapters 1-21)

The Louisiana Student Financial Assistance Commission (LASFAC) advertises its intention to adopt rules for the Tuition Opportunity Program for Students (TOPS). In accordance with R.S. 17:3021-3036, the Louisiana Student Financial Assistance Commission intends to adopt the following rule governing the Scholarship and Grant Programs administered by the commission. The purpose of this proposed rule is to govern the allocation and award of scholarship and grant funds under these programs.

#### Title 28

#### EDUCATION

#### Part IV. Higher Education Scholarship and Grant Programs

##### Chapter 1. Scope

##### §101. Introduction

A. Statutory Authority. The Louisiana Student Financial Assistance Commission (LASFAC) was created by Chapter 20, Higher Education Assistance, Louisiana Revised Statutes of 1950, comprised of R.S. 17:3021-3036, for the purpose of supervising, controlling, directing and administering state and federal programs to provide loans to assist persons in meeting the expenses of higher education, and state and federal scholarship and grant programs for higher education. The Louisiana Office of Student Financial Assistance (LOSFA), under authority of the commission, administers state and federal postsecondary student scholarship, grant and loan programs.

B. Agency's Mission Statement. The mission of LOSFA is to provide resources to Louisiana residents for the pursuit of postsecondary education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:

##### §103. Purpose

A. LAC 28:IV provides the rules and regulations governing participation in the scholarship and grant programs administered by LASFAC, including, but not limited to:

1. applicants and recipients;
  2. high school counselors;
  3. principals and headmasters;
  4. superintendents;
  5. college and university financial aid directors and staff;
- and
6. federal and state authorities.

B. LAC 28:IV was developed to meet the following objectives:

1. establish scholarship and grant policies and procedures that implement and explain or interpret statutes;

2. define the program responsibilities of participants (applicants, recipients, and high school, school board and postsecondary institution officials);

3. ensure that scholarships and grants are awarded in accordance with statute and legislative intent;

4. establish procedures to monitor the performance of scholarship and grant recipients;

5. ensure compliance with statutory and regulatory provisions governing the administered programs.

C. Since these rules and regulations can neither anticipate nor address every situation that might be encountered in the administration of the scholarship and grant programs included herein, participants in doubt about the applicability or interpretation of a rule or regulation in LAC 28:IV are advised to contact LOSFA for guidance.

D. LAC 28:IV shall be amended and updated as necessary. Such updates will be forwarded to institutions in the form of Scholarship and Grant Program Memoranda (SGPM). SGPM will cover additions, deletions, revisions and clarifications to the rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated by the Louisiana Student Financial Assistance Commission, Louisiana Office of Student Financial Assistance LR 24:

##### §105. Effective Date

These rules and regulations are effective for awards beginning with the 1998-99 academic year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:

##### §107. Authority to Audit

By participating in the scholarship and grant programs administered by LASFAC and described in LAC 28:IV, all participants, including high schools and postsecondary institutions, grant LASFAC and the Louisiana legislative auditor the right to inspect records and perform on-site audits of each institution's administration of the programs for the purpose of determining the institution's compliance with state law and LASFAC's rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:

##### §109. Discrimination Prohibition

The exclusion of a person from equal opportunity for a Louisiana scholarship and/or grant program administered by LASFAC because of race, religion, sex, handicap, national origin or ancestry is prohibited. No policy or procedure of this agency shall be interpreted as superseding or contradicting this prohibition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:

**§111. Criminal Penalties**

All certifications of student performance which are submitted to LASFAC for the purpose of determining a student's eligibility for an award under a student aid program administered by LASFAC shall be by sworn affidavit of the certifying official and such official shall be subject to criminal law applicable to false swearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:

**Chapter 3. Definitions**

**§301. Definitions**

Where the masculine is used, in these rules, it includes the feminine, and vice versa; where the singular is used, it includes the plural, and vice versa.

*Academic Year (College)*—the two- and four-year college and university academic year begins with the fall term of the award year, includes the winter term, if applicable, and culminates with the completion of the spring term of the award year. The two- and four-year college and university academic year does not include summer sessions or intersessions. The Louisiana Technical College academic year begins with the fall quarter, includes the winter and spring quarters and culminates with the summer quarter.

*Academic Year (High School)*—the annual academic year for high school begins with the summer session, includes the fall and winter terms and ends at the conclusion of the spring term, in that order. For example, for a high school graduate to be considered for award of a scholarship to attend college in the 1998 fall semester, he or she must have graduated by the spring term 1998 (usually May or June), but may have graduated during the summer term 1997 (usually June or July) or midterm 1997 (usually December). This definition is not to be confused with the Louisiana Department of Education's definition of *school year*, which is found in Louisiana Department of Education Bulletin 741.

*Average Public Tuition*—the amount of a TOPS tuition award (Opportunity, Performance and Honors) that will be received by a student attending a private college or university that is a member of the Louisiana Association of Independent Colleges and Universities (LAICU), calculated using the program's prior year average annual tuition amount received by students attending public two- and four-year institutions in the prior award year.

*Basic Course Enrollment Charges*—those institutional tuition and mandatory fees universally charged to all full-time students for purposes of enrollment.

*Core Curriculum*—

a. at the time of high school graduation, an applicant must have successfully completed 16.5 units of high school course work constituting a core curriculum as follows:

Units	Course
1	English I
1	English II
1	English III

1	English IV
1	Algebra I (No substitutions)
1	Algebra II
1	Geometry, Trigonometry, Calculus or Comparable Advanced Math
1	Biology I
1	Chemistry I
1	Earth Science, Environmental Science, Physical Science, Biology II, Chemistry II or Physics
1	American History
1	World History, World Culture, Western Civilization or World Geography
1	Civics and/or Economics/Free Enterprise
1	Fine Arts Survey; (or substitute two units Performance courses in Music, Dance and/or Theater; or two units of Studio Art; or one elective from among the other subjects listed in this core curriculum)
2	In the Same Foreign Language
½	Computer Science, Computer Literacy or Data Processing (or substitute at least one-half unit of an elective from among the other subjects listed in this core curriculum)

b. Core units are waived upon sworn affidavit by the school board superintendent for public schools or by the principal or headmaster for nonpublic high schools that the course was not available to the student at the school attended.

*Cost of Education*—the total amount it will cost a student to go to school, usually expressed as an academic year figure. This cost is determined by the school in compliance with Title IV of the Higher Education Act of 1965, as amended, and is annually updated and adopted by the institution. The cost of education covers tuition and fees, on-campus room and board (or a housing and food allowance for off-campus students) and allowances for books, supplies, transportation, child care, costs related to a disability, and miscellaneous expenses. Also included are reasonable costs for eligible programs of study abroad. An allowance (determined by the school) is included for reasonable costs connected with a student's employment as part of a cooperative education program.

*Dependent Student*—a student who is dependent on his or her parents or legal guardian for support and therefore is required to include parental information on the FAFSA or renewal FAFSA.

*Eligible Noncitizen*—an individual who can provide documentation from the Immigration and Naturalization Service (INS) that he or she is in the U.S. for other than a temporary purpose with the intention of becoming a citizen or permanent resident. Including, but not limited to, refugees, persons granted asylum, Cuban-Haitian entrants, temporary residents under the recent Immigration Reform and Control Act of 1986, and others. A permanent resident of the U.S. must provide documentation from the INS to verify permanent residency.

*Expected Family Contribution (EFC)*—an amount, determined by a formula established by Congress, that

indicates how much of a family's financial resources should be available to help pay for the dependent's cost of education. Factors such as taxable and nontaxable income, assets (such as savings and checking accounts), and benefits (for example, unemployment or Social Security) are all considered in this calculation.

*Fee Schedule*—a listing of the actual tuition and mandatory fees for attendance at a postsecondary school as defined by the institution.

*First-Time Freshman*—a student is a first-time freshman the first fall, winter or spring semester or quarter, subsequent to high school graduation, in which a student enrolls as a full-time student and continues to be enrolled full time on the fourteenth class day (ninth class day for Louisiana Tech). A student who begins postsecondary or university attendance in a summer session will be considered a first-time enrollee for the immediately succeeding fall term.

*Full-Time Student*—

a. a student enrolled in an institution of higher education who is carrying a full-time academic workload as determined by the school under the standards applicable to all students enrolled;

b. for continuation purposes, a student is considered to have met the full-time requirement if by the completion of the spring term he or she has earned at least 24 hours of total credit during the fall, winter and spring terms at an institution defining 12 semester or eight quarter hours as the minimum for full-time undergraduate status.

c. for programs which permit graduate study, a graduate student must have earned at least 18 hours of total credit during the fall, winter and spring terms;

d. a workload of at least 30 clock hours per week is the full-time equivalent at a technical college.

*Graduate (High School)*—for the purposes of this Chapter, a *high school graduate* is defined as a student certified by award of a high school diploma to have satisfactorily completed the required units at a Louisiana public- or BESE-approved nonpublic high school or certified by award of a high school diploma from an eligible non-Louisiana high school.

*Independent Student*—those students required to report only student information on the FAFSA, or if married, student and spouse information, and information on any dependent children. An independent student is a student who meets at least one of the criteria listed in Subparagraphs a.-f or has been determined independent by a financial aid officer exercising professional judgment in accordance with applicable provisions of the Higher Education Act of 1965, as amended:

a. reached 24 years of age prior to January of the year preceding the academic year for which the student is applying for aid;

c. is a veteran of the U.S. Armed Forces, including a student who was activated to serve in Operation Desert Storm;

c. is an orphan or a ward of the court or was a ward of the court until age 18;

d. has legal dependents other than a spouse;

e. is a graduate or professional student;

f. is married.

*Louisiana Resident*—any person who has manifested intent to remain in this state by establishing Louisiana as legal domicile, as demonstrated by compliance with all of the following:

a. has continuously resided in Louisiana during the 24 months preceding college or university enrollment, except for Rockefeller and SSIG recipients who must have continuously resided in Louisiana for the previous 12 months; and

b. unless designated as an independent student, as defined in LAC 28:IV, has a parent or legal guardian who is domiciled in Louisiana; and

c. if registered to vote, is registered to vote in Louisiana; and,

d. if licensed to drive a motor vehicle, is in possession of a Louisiana driver's license; and

e. if owning a motor vehicle located within Louisiana, is in possession of a Louisiana registration for that vehicle; and,

f. if earning an income, has complied with Louisiana state income tax laws and regulations.

*Merit Ranking Formula*—an index incorporating selected merit factors which is used to rank eligible applicants in the priority by which competitive scholarships are to be awarded. As of July 1, 1997, the TOPS Teacher Award and Rockefeller Scholarship are the only programs in which applicants are competitively ranked. The following formulas for the merit ranking of scholarship applicants provide for the equating of scores for high school graduating seniors and college students.

a. Formula I—utilized for applicants with less than 24 hours of graded college credit:

$$\text{Merit Score} = \left( \left( \frac{\text{HSGPA}}{4.00} \right) \times 60 \right) \% \left( \left( \frac{\text{ACT}}{36} \right) \times 40 \right)$$

b. Formula II—utilized for applicants with 24 or more hours of graded college credit:

$$\text{Merit Score} = \left( \left( \text{College } \frac{\text{GPA}}{4.00} \right) \times 95 \right) \% \left( \left( \frac{\text{College Level}}{4} \right) \times 5 \right)$$

c. Formula III—utilized for applicants for the TOPS Teacher Award. For those applicants majoring in math or chemistry, an additional 10 points are added to the merit score determined by Formula I or II, resulting in an adjusted merit score.

d. Applicants' merit scores are ranked in descending order with the applicant with the highest merit score ranked first. The number of applicants selected for award is dependent upon the amount of award funds available.

*Monetary Repayment*—for purposes of the Rockefeller State Wildlife Scholarship and TOPS Teacher Award Programs, repaying the scholarship funding received, plus any interest accrued under the terms of the promissory note signed by the recipient, if the recipient fails to fulfill the terms of the program. See *Repayment*.

*Overaward*—for the purposes of LAC 28:IV, an over award occurs when a student received financial aid in excess of the cost of education as established in accordance with federal Title IV regulations or an award under state programs to which the student was not entitled.

*Refund*—a refund of school charges that the school makes to a student, usually after the student has withdrawn from

school. The refund to the student is the difference between the amount the student paid toward school charges minus the amount the school keeps for the portion of the payment period that the student was enrolled.

*Repayment*—the amount of the cash disbursement that a student must pay back to the school if the student withdraws from the program. If the cash disbursement was greater than the student's living expenses (student's education costs above and beyond the amount of tuition and fees) up to the withdrawal date, the student must repay the excess amount. The actual amount of the refund/repayment is determined according to the school's policy in accordance with federal regulations. See *Monetary Repayment*.

*Substantial Financial Need*—for purposes of the SSIG program only, substantial financial need is the difference between the student's cost of education and the sum of that student's expected family contribution (EFC) plus other student aid the student is due to receive. The difference thus computed must exceed \$199.

*Undergraduate Student*—a student who has not completed the requirements for a baccalaureate degree program and/or is not classified as a professional student for the purposes of receipt of federal student aid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:

## **Chapter 5. Application; Application Deadlines and Proof of Compliance**

### **§501. Application**

All new applicants for, and all continuing recipients of, Louisiana scholarship and grant programs must annually apply for state and federal aid by completing the Free Application for Federal Student Aid (FAFSA) or the renewal FAFSA, whichever is applicable to the individual student. The deadline for priority consideration for state aid is published in the FAFSA's instructions and may be revised annually by the LASFAC.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:

### **§503. Application Deadlines**

#### **A. Deadline for Priority Consideration**

1. For priority consideration for the 1998-99 award year, applicants must submit the FAFSA to be received by the federal processor by June 1, 1998.

2. Priority consideration means that an applicant who submits a FAFSA by this date shall, under normal circumstances, receive notification of his eligibility for a noncompetitive award (TOPS Opportunity, Performance and Honors Awards) prior to enrolling in the fall term.

3. An applicant for a competitively awarded scholarship (TOPS Teacher Award and Rockefeller State Wildlife Scholarship) who submits a FAFSA by this date shall be considered for selection of award in the first round of applicants awarded.

4. For priority consideration for award years after 1998-99, applicants must submit the FAFSA to be postmarked by April 15, or to be received by the federal processor by May 1, preceding the award year.

B. Final Deadline. The final deadline to apply for state aid is March 1 of the award year, by which time the FAFSA must have been received by the federal processor. For example, for the 1998-99 award year, the final deadline date for receipt of the application by the federal processor is March 1, 1999.

C. If a prescribed deadline date falls on a weekend or holiday, it will automatically be extended to the next business day.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:

### **§505. Proof of Compliance**

As proof of compliance with the state's final deadline for submitting the FAFSA, LASFAC will accept the documentation listed in Paragraph 1. through 3. No other form of verification, including notarized or certified statements, will be accepted as proof of compliance with the deadline requirement.

1. A certificate of mailing, registered, certified, certified/return receipt requested, priority or overnight mail receipt from the United States Postal Service, or other authorized mail carriers such as United Parcel Service and Federal Express, which is dated prior to the state's final deadline.

2. The Electronic Student Aid Report (ESAR), produced by the federal processor, shows that the original application was received by the state's final deadline.

3. The federal processor provides verbal or written verification to LASFAC that the original application was received by the state's final deadline.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:

### **§507. Final Deadline for Submitting Documentation of Eligibility**

A. LASFAC will continue to process eligibility for both new and renewal applicants during each award year until May 1 of the spring term of that award year.

B. Students not determined eligible by May 1 of the spring term of the award year are ineligible to receive program funding that award year.

C. All documentation and certifications necessary to establish student eligibility, including but not limited to high school and/or college transcripts and certifications, copies of Student Aid Reports, applicant confirmation forms, promissory notes and other documents which may be utilized in determining eligibility, must be received by LASFAC no later than May 1 of the award year. For example, to receive an award for the 1998-99 award year, LASFAC must have in its possession all documents relevant to establishing eligibility by May 1, 1999.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:

## **Chapter 7. Tuition Opportunity Program for Students (TOPS) Opportunity; Performance and Honors Awards**

### **§701. General Provisions**

A. Legislative Authority. The TOPS Opportunity, Performance and Honors Awards were created by Act 1375 of the 1997 Regular Session of the Louisiana Legislature. This Act amended and reenacted R.S. 17:3026(J) and (K), 3042.36, Chapter 20-G of the Louisiana Revised Statutes of 1950, comprised of R.S. 17:3048.1 and 3048.2, and R.S. 47:1508(B)(18).

B. Description, History and Purpose. The Tuition Opportunity Program for Students (TOPS) is a comprehensive, merit-based student aid program consisting of a series of components, with each component having its own eligibility criteria and titled award. The purpose of TOPS is to provide an incentive for Louisiana residents to academically prepare for and pursue postsecondary education in this state, resulting in an educated work force enabling Louisiana to prosper in the global market of the future. The major components of TOPS are the opportunity award, the performance award and the honors award.

C. The opportunity, performance and honors awards, which will be funded for the 1998-99 academic year, combine former programs (Louisiana Tuition Assistance Plan [TAP] and the Louisiana Honors Scholarship Program) with a new component, the honors award, to produce a comprehensive program of state scholarships.

D. The purposes of this program are to:

1. financially assist those students who are academically prepared to continue their education at a Louisiana postsecondary institution; and
2. encourage academic excellence; and
3. provide incentives for Louisiana high school graduates to pursue postsecondary education in this state.

E. Award Amounts. The specific award amounts for each component of TOPS are as follows.

1. The TOPS Opportunity Award provides undergraduate tuition for full-time attendance at Louisiana public two- and four-year colleges and universities and Louisiana Technical College.

2. The TOPS Performance Award provides a \$400 annual stipend, in addition to tuition.

3. The TOPS Honors Award provides an \$800 annual stipend, in addition to tuition.

4. Performance and Honors Award recipients attending Louisiana Technical College are restricted to the receipt of the amount of tuition charged by the institution and are not eligible for annual stipends.

5. Students attending a regionally accredited independent college or university which is a member of the Louisiana Association of Independent Colleges and Universities (LAICU) receive the average public tuition amount, as defined in §301 plus any applicable stipend.

6. Recipients of TOPS Awards who are also beneficiaries of Student Tuition Assistance and Revenue Trust

(START) Saving Program accounts, may apply the START disbursements to pay tuition, and any remaining tuition due may be paid by the TOPS award. Any balance of the TOPS award which remains after payment of the institution's charges, shall be credited to the student's account and treated in accordance with institutional policies.

7. For the 1998-99 award year only, students funded under the Tuition Assistance Plan (TAP) or the Louisiana Honors Scholarship during the 1997-98 award year, who have maintained eligibility for the 1998-99 award year, shall receive awards under the TOPS Opportunity or Performance Awards, respectively. For 1997 high school graduates receiving a TAP or Louisiana Honors Scholarship award during the 1997-98 award year, who meet the criteria for establishing and maintaining eligibility for a TOPS Performance and/or Honors Award as specified in §§703-705, may at their option elect to be awarded under that program which provides the higher monetary award. Students electing an award with a higher monetary value, will be required to meet continuation requirements for the higher award.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:

### **§703. Establishing Eligibility**

To establish eligibility for a TOPS Opportunity, Performance or Honors Award, the student applicant must meet all of the following criteria:

1. be a U.S. citizen or national or eligible noncitizen, and be registered with the Selective Service, if required; and
2. be a resident of Louisiana, as defined in Chapter 3 of LAC 28:IV; and
3. annually submit the completed Free Application for Federal Student Aid (FAFSA) or renewal FAFSA by the applicable state aid deadline defined in §503; and
4. initially apply and enroll in an eligible postsecondary institution within two years of the date of high school graduation and for Opportunity Awards only, enroll as a first-time freshman, as defined in Section §301 in an eligible postsecondary institution within two years of the date of high school graduation.

5. graduate from a BESE-approved, provisionally-approved, or probationally-approved public or nonpublic high school or eligible non-Louisiana high school as defined in §1701; or for Performance Awards only, be enrolled in a state-approved home study program; and

6. at the time of high school graduation, have successfully completed 16.5 units of high school course work constituting a core curriculum as defined in §301. Applicants for the TOPS Performance Award are not required to complete the core curriculum until the graduating class of 2001; and

7. at the time of high school graduation have taken the American College Test (ACT) and received composite test score results, or an equivalent concordant value on the Scholastic Aptitude Test (SAT), of at least:

- a. the state's reported prior year average, rounded, but never less than 19, for the Opportunity Award; or
- b. a 23 for the Performance Award; or

- c. a 27 for the Honors Award; and
- 8. have attained a cumulative high school grade point average, based on a 4.00 maximum scale for all courses reflected on the high school transcript of at least:
  - a. a 2.50 for the Opportunity Award; or
  - b. a 3.50 for either the Performance or Honors Awards; and
- 9. for the Performance Award only, be certified as graduating in the top 5 percent of the high school graduating class, as defined in Chapter 19 of LAC 28:IV or be enrolled in a state-approved home study program and score in the upper 5 percent in the state on the National Merit Examination; and
- 10. be in compliance with the terms of other federal and state aid programs which the applicant may be receiving and which are administered by LASFAC; and
- 11. not have a criminal conviction, except for misdemeanor traffic violations; and
- 12. agree that awards will be used exclusively for educational expenses; and
- 13. enroll as a full-time undergraduate student, as defined in §301, in a LASFAC approved eligible postsecondary institution, as defined in §1901; and
- 14. if academically eligible for more than one of the TOPS components, excluding the TOPS Teacher Award, be awarded under that component which requires the highest academic standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:

#### **§705. Maintaining Eligibility**

A. To continue receiving the TOPS Opportunity, Performance or Honors Awards, the recipient must meet all of the following criteria:

- 1. have received less than four years or eight semesters of TOPS Award funds; and
- 2. annually submit the Free Application for Federal Student Aid (FAFSA) or renewal FAFSA by the applicable state aid deadline defined in §501; and
- 3. be in compliance with the terms of other federal and state aid programs which the applicant may be receiving and which are administered by LASFAC; and
- 4. not have a criminal conviction, except for misdemeanor traffic violations; and
- 5. agree that awards will be used exclusively for educational expenses; and
- 6. continue to enroll as a full-time undergraduate student in an eligible postsecondary institution, as defined in §705.A.13, unless granted an exception for cause by LASFAC; and
- 7. earn at least 24 college credit hours during the fall and spring semesters or fall, winter and spring quarters, or complete an average of 30 clock hours per week, as evaluated at the conclusion of the spring term. Unless granted an exception for cause by LASFAC, failure to earn the required number of hours will result in permanent cancellation of the recipient's eligibility; and

8. not be placed on academic probation by the postsecondary institution attended; and

9. maintain, by the end of each academic year (the conclusion of the spring term), a cumulative college grade point average on a 4.00 maximum scale of at least:

- a. a 2.10 after the completion of less than 48 credit hours, a 2.30 after the completion of 48 credit hours, and a 2.50 after the completion of 72 credit hours, for continuing receipt of an Opportunity Award; or
- b. a 3.00 for continuing receipt of either a Performance or Honors Award.

B. Students failing to meet the requirements listed in §705.A.8 and 9.a and b may have their tuition awards reinstated upon the lifting of academic probation and/or attainment of the required grade point average, if the period of ineligibility did not persist for more than two years from the date of loss of eligibility. Reinstated students are ineligible for receipt of annual stipends.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:

### **Chapter 9. TOPS Teacher Award**

#### **§901. General Provisions**

A. Legislative Authority. The TOPS Teacher Award Program was created by Act 476, of the 1997 Regular Session of the Louisiana Legislature. This bill amended and reenacted R.S. 17:3042.1(A)(3) and (4), (B), (C), and (D) and 3042.2(A) and (B); reenacted R.S. 17:3042.1(A)(5) and (6) and 3042.8; and renamed Chapter 20-B of Title 17 of the Louisiana Revised Statutes of 1950.

B. Description, History and Purpose. The Tuition Opportunity Program for Students (TOPS) Teacher Award:

1. annually provides approximately 90 competitively awarded educational loans to residents of Louisiana who commit to teach at the elementary or secondary school level in Louisiana. When the recipient teaches at an approved school in Louisiana, the loans are forgiven in the ratio of one year of loan forgiveness for each year of teaching, or two years of loan forgiveness for each year of teaching in an elementary or secondary school which is located in an economically disadvantaged region of the state as determined by the Board of Elementary and Secondary Education (BESE);

2. was first funded for the 1997-98 award year;

3. was created to provide an incentive for Louisiana's best and brightest students to become tomorrow's classroom teachers and to provide an incentive that will attract highly qualified teachers in mathematics and chemistry at the elementary and secondary school levels.

C. Award Amounts

1. Loans are made in the amount of \$6,000 per award year for mathematics and chemistry majors.

2. Loans are made in the amount of \$4,000 per year for teacher education majors other than those listed in §901.C.1.

3. Recipient may receive a maximum of four years of funding.

4. Recipients receive one half of the annual award (\$3,000 or \$2,000, respectively) at the beginning of the fall and spring terms.

5. Recipients may, in conjunction with the Teachers Award, receive another TOPS Award.

6. Recipients may not receive aid which, together with the TOPS Teacher Award, would exceed the students' total cost of education as determined by the institution in accordance with regulations implementing federal Title IV student aid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:

### **§903. Establishing Eligibility**

To establish eligibility the student applicant must meet all of the following criteria:

1. be a U.S. Citizen or National or eligible non-citizen, and be registered with the Selective Service, if required; and

2. be a resident of Louisiana, as defined in Chapter 3 of LAC 28:IV; and

3. annually submit the completed Free Application for Federal Student Aid (FAFSA) or Renewal FAFSA, whichever is applicable to the student, by the state aid deadline defined in §503; and

4. graduate from a Board of Elementary and Secondary Education (BESE)-approved, provisionally-approved, or probationally-approved public or nonpublic high school; and

5. at the time of high school graduation, have successfully completed 16.5 units of high school course work constituting a core curriculum as defined in Chapter 3 of LAC 28:IV; and

6. at the time of high school graduation, have attained a composite score on the American College Test (ACT) or the Scholastic Aptitude Test (SAT) which is, or is equivalent to, at least a 23 on the 1990 version of the ACT; and

7. graduate with a cumulative high school grade point average of at least a 3.25, calculated on a 4.00 scale, for all courses reflected on the high school transcript; and

8. if by the end of June in the year of application, the student will have completed 24 or more hours of graded college credit, have at least a 3.25 cumulative college grade point average on a 4.00 scale; and

9. complete and submit such documentary evidence as may be required by LASFAC by the deadline specified in §503; and

10. be in compliance with the terms of other federal and state aid programs which the applicant may be receiving and which are administered by LASFAC; and

11. not have a criminal conviction, except for misdemeanor traffic violations; and

12. agree that the award will be used exclusively for educational expenses; and

13. enroll during the fall term at an eligible college or university, as defined in §1901, as a full-time undergraduate student, as defined in §301, in a degree program or course of study leading to a degree in education or an alternative program leading to regular certification as a teacher at the elementary or secondary level in mathematics or chemistry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:

### **§905. Selection Criteria**

Recipients are competitively selected for the award based upon the merit rank score assigned to each eligible applicant. The merit ranking formula is defined in §301.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:

### **§907. Maintaining Eligibility**

To continue receiving the TOPS Teacher Award, recipients must meet all of the following criteria:

1. have received less than four years or eight semesters of TOPS Teacher Award funding; and

2. at the close of each academic year (ending with the spring semester or quarter), have earned at least 24 hours total credit during the fall, winter and spring terms; and

3. achieve a cumulative grade point average of at least a 3.00 calculated on a 4.00 scale at the end of each academic year; and

4. not be placed on academic probation as determined by the college or university attended; and

5. continue to enroll each subsequent semester or quarter as a full-time undergraduate student, unless granted an exception for cause, in a degree program or course of study leading to a degree in education or alternative program leading to regular certification as a teacher at the elementary or secondary level; or

6. enter a program approved by the State Board of Elementary and Secondary Education (BESE) which leads to a degree in education or to regular certification as a teacher as soon as sufficient credits have been earned to do so; and

7. annually apply for federal and state student aid by completing the FAFSA or Renewal FAFSA, whichever is applicable to the student, by the state deadline; and

8. have no criminal convictions, except for misdemeanor traffic violations; and

9. be in compliance with the terms of all other federal and state aid programs which the student may be receiving and which are administered by LASFAC.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:

### **§909. Completion of Promissory Note and Acceptance of Award**

Prior to receiving an award, the recipient must agree to the terms and conditions contained in the TOPS Teacher Award Program Promissory Note by completing the form and returning it to LASFAC by the specified deadline. The promissory note obligates the recipient to teach one year for each year of funding received; or, if teaching in a school located in an *economically disadvantaged region* of the state, as defined by the State Board of Elementary and Secondary Education (BESE), teach one year for every two years of

funding received, or repay the funds received, plus accrued interest and any collection costs incurred.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:

### **§911. Discharge of Obligation**

A. The loan obligation may be discharged by teaching fulfillment, monetary repayment or cancellation.

B.1. Teaching fulfillment is accomplished by:

a. within two years of the date of certification as a teacher, perform service as a full-time classroom teacher in a Louisiana Board of Elementary and Secondary Education (BESE)-approved, provisionally-approved, or probationally-approved elementary or secondary school;

b. each one-half year or more of full-time service as a teacher will fulfill an equivalent period of funding (one semester). However, if teaching in an elementary or secondary school which is located in an economically disadvantaged region of the state, as defined by BESE, one-half year of teaching will fulfill one year of funding.

2. The first semester of full-time teaching will be applied toward fulfillment of the earliest dated disbursement not previously paid under §911.C, the second semester the next earliest dated disbursement, and continuing until all disbursements have been fulfilled.

3. Teaching to fulfill requirements must be completed within six years of the date of certification as a teacher.

C. Monetary Repayment. Recipients who elect not to discharge the obligation by teaching fulfillment and who are not eligible for discharge by cancellation must repay the loan principal plus accrued interest and any collection costs incurred.

1. Interest will accrue on the outstanding principal at the rate of 8 percent per annum.

2. Interest on each disbursement will accrue from the date of disbursement until repaid, canceled or fulfilled. Accrued interest will be capitalized when the recipient enters repayment status.

3. Repayment Status. The recipient enters repayment status the first of the month following:

a. determination by LASFAC that the recipient cannot complete fulfillment by teaching within the required time period;

b. notification of LASFAC by the recipient that monetary repayment is desired;

c. six months after LASFAC determines that the recipient is no longer pursuing a degree program or course of study leading to a degree in education or alternative program leading to regular certification as a teacher at the elementary or secondary school level.

4. The annual repayment amount will be the greater of:

a. the amount necessary to repay the capitalized amount within 10 years; or

b. \$1,200 per year or the unpaid balance, whichever is less.

5. Recipients in repayment status may have their payments deferred in accordance with §2105.B, Deferral of

Repayment Obligation.

6. During the period of time a recipient is in deferment status, a recipient is not required to make repayments and interest does not accrue.

7. The period of time for completion of repayment will be extended by a period of time equal to the length of time the recipient is in deferment status.

D. Cancellation. The obligation to repay any remaining unpaid balance of the TOPS Teacher Award shall be canceled in the event either of the following conditions occur:

1. upon submission to LASFAC of a sworn affidavit of a qualified physician that the recipient is precluded from gainful employment because of a complete and permanent medical disability or condition.

2. Upon submission to LASFAC of a death certificate, or other evidence conclusive under State law, that the recipient is deceased.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:

## **Chapter 11. Rockefeller State Wildlife Scholarship**

### **§1101. General Provisions**

A. Legislative Authority. The Louisiana State Wildlife Scholarship Program was created and amended by the following Acts of the Louisiana Legislature:

1. Act 807 of the 1980 Regular Legislative Session;
2. Act 849 of the 1987 Regular Legislative Session;
3. Act 707 of the 1989 Regular Legislative Session.

B. Description, History and Purpose

1. The Rockefeller State Wildlife Scholarship Program:  
a. is funded with dedicated monies and offers competitively awarded scholarships valued at \$1,000 per academic year to both undergraduate and graduate students majoring in forestry, wildlife, or marine science as it pertains to wildlife;

b. was established in 1980.

2. In accepting the Rockefeller State Wildlife Scholarship, the student agrees to attain a degree in one of the required fields at a Louisiana public college or university offering such degrees. If the student fails to successfully complete an eligible course of study, as per the agreement made between LASFAC and the student, the funds must be repaid with interest.

C. Award Amounts

1. The annual award is \$1,000.

2. The cumulative maximum award is \$7,000 for up to five years of undergraduate and two years of graduate study.

3. Recipients receive \$500 each fall and spring term.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:

### **§1103. Establishing Eligibility**

To establish eligibility, the student applicant must meet all of the following criteria:

1. be a U.S. citizen or national or eligible noncitizen, and be registered with the Selective Service, if required; and

2. be a resident of Louisiana, as defined in Chapter 3 of LAC 28:IV; and

3. annually, submit the completed Free Application for Federal Student Aid (FAFSA) or the Renewal FAFSA, whichever is applicable to the student, by the state aid deadline defined in §503; and

4. complete and submit such documentary evidence as may be required by LASFAC; and

5. be in compliance with the terms of other federal and state aid programs which the applicant may be receiving and which are administered by LASFAC; and

6. not have a criminal conviction, except for misdemeanor traffic violations; and

7. agree that award proceeds will be used exclusively for educational expenses; and

8. be enrolled or accepted for enrollment as a full-time undergraduate or graduate student at a Louisiana public college or university majoring in forestry, wildlife or marine science, with the intent of obtaining a degree from a Louisiana public college or university offering a degree in one of the three specified fields; and

9. must have graduated from high school and, if at the time of application the student applicant has earned less than 24 hours of graded college credit since graduating from high school, have earned a minimum cumulative high school grade point average of at least 2.50 calculated on a 4.00 scale for all courses completed in grades nine through 12 and have taken the ACT or SAT and received test score results; or

10. if at the time of application, the student applicant has earned 24 or more hours of college credit, then the applicant must have at least a 2.50 cumulative college grade point average.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:

#### **§1105. Selection Criteria**

Recipients are competitively selected for an award based upon the merit rank score assigned to each eligible applicant. The merit ranking formula is defined in §301.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:

#### **§1107. Maintaining Eligibility**

To continue receiving the Rockefeller State Wildlife Scholarship, recipients must meet all of the following criteria:

1. have received less than seven academic years (five undergraduate and two graduate) of funding under the Rockefeller State Wildlife Scholarship Program; and

2. at the close of each academic year (ending with the spring semester or quarter), have earned at least 24 hours total credit during the fall, winter and spring terms at an institution defining 12 semester or eight quarter hours as the minimum for full-time undergraduate status or earn at least 18 hours total credit during the fall, winter and spring terms at an institution defining nine semester hours as the minimum for full-time graduate status; and

3. achieve a cumulative grade point average of at least 2.50 at the end of the first academic year and each academic year thereafter; and

4. continue to enroll each subsequent semester or quarter (excluding summer sessions and intersessions) at the same institution unless granted an exception for cause and/or approval for transfer of the award by LASFAC; and

5. continue to pursue a course of study leading to an undergraduate or graduate degree in wildlife, forestry or marine science.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:

#### **§1109. Completion of Promissory Note and Acceptance of Award**

Prior to receiving an award, the recipient must agree to the terms and conditions contained in the Rockefeller State Wildlife Scholarship Program Promissory Note (LASFAC-RS02), by completing the form and returning it to LASFAC by the specified deadline. The promissory note obligates the recipient to obtain a Wildlife, Forestry or Marine Science degree or repay the scholarship funds received, plus accrued interest and any collection costs incurred.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:

#### **§1111. Discharge of Obligation**

A. The loan obligation may be discharged by graduation in an eligible major, monetary repayment or cancellation.

B. Graduation Fulfillment. Fulfillment of undergraduate awards is accomplished by the recipient's attainment of a bachelor's degree; fulfillment of graduate awards is accomplished by attainment of a master's or doctorate degree, in wildlife, forestry or marine science.

C. Monetary Repayment. Recipients who do not discharge the obligation by graduation fulfillment and who are not eligible for discharge by cancellation must repay the loan principal, plus accrued interest and any collection costs incurred.

1. Interest accrues on the outstanding principal at the rate of 8 percent per annum.

2. Interest on each disbursement accrues from the date of disbursement until repaid, canceled or fulfilled. Accrued interest will be capitalized when the recipient enters repayment status.

3. Repayment Status. The recipient enters repayment status the first day of the month following:

a. notification of LASFAC by the recipient that monetary repayment is desired; or

b. six months after LASFAC determines that the recipient is no longer pursuing a degree program or course of study leading to a degree in wildlife, forestry or marine science.

4. The annual repayment amount will be the greater of:

a. the amount necessary to repay the capitalized amount within seven years; or

b. \$1,200 per year or the unpaid balance, whichever is less.

5. Recipients in repayment status may have their payments deferred in accordance with §2105.B, titled Deferment of Repayment Obligation.

a. During the period of time a recipient is in deferment status, the recipient is not required to make payments and interest does not accrue.

b. The period of time for completion of repayment will be extended by a period of time equal to the length of time the recipient is in deferment status.

D. Cancellation. The obligation to repay all or part of Rockefeller State Wildlife Scholarship Program funds shall be canceled in the event either of the following occur:

1. Upon submission to LASFAC of a sworn affidavit of a qualified physician that the recipient is precluded from completing the educational program and/or from gainful employment because of a complete and permanent medical disability or condition.

2. Upon submission to LASFAC of a death certificate, or other evidence conclusive under state law, that the recipient is deceased.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:

### **Chapter 13. State Student Incentive Grant (SSIG)**

#### **§1301. General Provisions**

##### **A. Legislative Authority**

###### **1. Federal**

a. Title IV of the Higher Education Act of 1965;

b. 34 CFR Part 692, as amended;

c. Title IV of the Higher Education Amendments of 1992 (Public Law 102-325).

###### **2. State**

a. R.S. 17:3032.5;

b. Act 632 of the 1974 Regular Legislative Session;

c. Act 228 of the 1977 Regular Legislative Session.

B. Description, History and Purpose. The Louisiana State Student Incentive Grant Program (SSIG), first funded in 1975, provides need-based grants to academically qualified students using federal and state funds. These grants are to be used for educational expenses including tuition and fees, books and supplies, and living expenses, such as room, board and transportation.

C. Louisiana administers a decentralized SSIG Program. Certain functions of the program are delegated to participating schools. Schools approved for participation in the Louisiana SSIG Program must have federal eligibility and must annually submit a state application and be approved for state participation. Funding available for a specific award year is allocated to eligible in-state postsecondary institutions, who select and certify recipients to LASFAC. LASFAC forwards award funding to the institutions for disbursement to the student or student's account.

D. Award Amounts. Individual grants range from an annual minimum of \$200 to a maximum of \$2,000; however, the actual amount of each student's award is determined by the

financial aid office at the institution and is governed by the number of recipients selected and the amount of funds available. Awards are based upon a full academic year, excluding summer sessions and intersession, beginning with the fall term and concluding with the spring term.

E. Allocation of Funds. Annually, funds are allocated to postsecondary institutions based on school type, the school's prior year first-time, full-time enrollment and the amount of the prior year's allocation that was expended. Initial funds, for first-time recipients, are computed as a percentage of all participating institutions first-time, full-time enrollment as of October 10 of the prior fiscal year. Continuation funds for students who had previously received SSIG are computed as a percentage of the allocated funds used during the previous year. The continuation formula applies 60 percent for four year schools and 40 percent for two year schools.

F. Reallocation of Funds. Uncommitted institutional allotted funds are reallocated if not committed by the deadline of November 1 for colleges and universities and January 1 for proprietary schools and campuses of Louisiana Technical College. The method of reallocation is dependent upon the amount of funds available for reallocation. If the reallocation amount is less than \$50,000, then only two and four year colleges and universities, which have fully committed their original allotment by the appropriate deadline, receive a reallocation. If \$50,000 or more is available for reallocation, it is reallocated to eligible schools of all types, which have fully committed their original allotment by the appropriate deadline.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:

#### **§1303. Establishing Eligibility**

SSIG applicants must meet all of the following criteria:

1. be a U.S. citizen or national or eligible noncitizen, and registered with the Selective Service, if required; and

2. be a resident of Louisiana, as defined in §301; and

3. annually, submit the completed Free Application for Federal Student Aid (FAFSA) or Renewal FAFSA, whichever is available to the applicant, by the state deadline defined in §503 and any deadline imposed by the institution attended; and

4. have a high school diploma with at least a 2.00 cumulative grade point average, or a minimum average score of 45 on the General Educational Development (GED) test, or an ACT composite score of at least 20, or a postsecondary grade point average of at least 2.00 from the most recent term; and

5. be selected and certified by the school for receipt of an SSIG award, contingent upon final approval by LASFAC; and

6. meet any additional selection criteria established by the individual institution participating in the SSIG Program; and

7. be certified as a full-time undergraduate student in an eligible program at an eligible postsecondary institution, as defined in §1901; and either:

a. be enrolled full time at the time of disbursement if disbursement occurs on or prior to the fourteenth class day (ninth class day for Louisiana Tech); or

b. be enrolled full time as of the fourteenth class day (ninth class day at Louisiana Tech) and is enrolled at least half-time at the time of disbursement if disbursement occurs after the fourteenth class day (ninth class day at Louisiana Tech); and

8. have substantial financial need, as defined in §301; and

9. be in compliance with the terms of other federal and state aid programs which the applicant may be receiving and which are administered by LASFAC; and

10. not have a criminal conviction, except for misdemeanor traffic violations; and

11. agree that the award proceeds will be used exclusively for educational expenses; and

12. not be in default of an educational loan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:

### **§1305. Maintaining Eligibility**

To continue receiving an SSIG Award, the recipient must meet all of the following criteria:

1. meet all of the initial eligibility criteria listed in §1303; and

2. maintain a cumulative postsecondary grade point average of at least 2.00 calculated on a 4.00 scale by the conclusion of the spring term.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:

## **Chapter 15. T.H. Harris Scholarship**

### **§1501. General Provisions**

#### **A. Legislative Authority**

1. R.S. 17:3036.1;
2. Act 24 of the 1938 Regular Legislative Session;
3. Act 199 of the 1940 Regular Legislative Session;
4. Act 19 of the 1942 Regular Legislative Session;
5. Act 499 of the 1948 Regular Legislative Session;
6. Act 83 of the 1977 Regular Legislative Session;
7. Act 710 of the 1985 Regular Legislative Session;
8. Act 663 of the 1990 Regular Legislative Session.

**B. Description, History and Purpose.** The T. H. Harris Scholarship Program was first funded with state general funds in 1942 for the purpose of granting scholarships to deserving youth enrolling at state-supported colleges or universities. A maximum cumulative award, assuming the recipient maintains eligibility, is \$2,000 for five years of study. Effective with award year 1996-97, applications are not being accepted and the program is being phased out. Students awarded during the 1995-96 award year, continue to receive an award, as long as funds are available and they maintain continuing academic eligibility.

**C. Award Amounts.** The annual award is \$400, with a cumulative maximum award of \$2,000 for five years.

Recipients receive \$200 each fall and spring term, less a \$5 award fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:

### **§1503. Maintaining Eligibility**

To continue to receive T. H. Harris Scholarship funds, recipients must meet all of the following criteria:

1. be in compliance with the terms of other federal and state aid programs which the applicant may be receiving and which are administered by LASFAC; and

2. agree that award proceeds will be used exclusively for educational expenses; and

3. continue to enroll as a full-time undergraduate student in a two- or four-year public college or university, unless granted an exception for cause by LASFAC; and

4. successfully complete the minimum number of hours required for a full-time student as defined in §301; and

5. achieve a cumulative grade point average of at least 3.00, on a 4.00 scale, at the conclusion of the spring term each academic year; and

6. have received less than 10 semesters of T.H. Harris funding.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:

## **Chapter 17. Responsibilities of High Schools, School Boards, Special School Governing Boards, the Louisiana Department of Education and LASFAC on Behalf of Eligible Non-Louisiana High Schools**

### **§1701. High School Eligibility to Participate**

Graduates of the following high schools are eligible to participate in LASFAC Scholarship and Grant programs.

1. Louisiana Public High Schools. Louisiana public high schools as listed in the *Louisiana School Directory* (Louisiana Department of Education Bulletin 1462).

2. Approved Nonpublic High Schools. Board of Elementary and Secondary Education (BESE) approved nonpublic high schools as listed in the *Louisiana School Directory* (Bulletin 1462), as an approved nonpublic school which meets the standards specified in *The Louisiana Handbook for School Administrators* (Bulletin 741). For the purposes of LAC 28:IV, approved nonpublic schools include private or diocesan high schools classified annually by the Department of Education as approved, provisionally-approved or probationally-approved.

3. Eligible Non-Louisiana High Schools. Eligible non-Louisiana high schools are defined as high schools which meet all of the following criteria:

a. are in a state adjoining the state of Louisiana; and

b. have provided LASFAC with acceptable evidence of an agreement dated prior to June 5, 1994, between a parish school system and the high school's local governing authority, which authorizes the attendance of students who are residents of Louisiana; and

c. have students who graduate during the academic year preceding the award year, who were residing in Louisiana and who are Louisiana domiciled and were funded through the Louisiana Minimum Foundation Program; and

d. have certified the academic performance of Louisiana graduates, in accordance with §1703.

4. Other Out-of-State High Schools. Graduates of other out-of-state high schools located in the United States are eligible to participate in the Rockefeller State Wildlife Scholarship and the State Student Incentive Grant Programs only.

5. General Education Diploma Recipients. Non-high school graduates earning a General Education Diploma (GED) in lieu of a high school diploma are eligible for participation in the State Student Incentive Grant Program only.

6. Home Study Program Students. Students enrolled in a state-approved home study program who score in the upper 5 percent in the state on the National Merit Examination and meet other requirements of the program are eligible for the TOPS Performance Award only.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:

### §1703. High School's Certification of Student Achievement

#### A. Certification Form and Data Elements

1. Responsibility for identification and certification of high school graduates who qualify for TOPS awards is as follows:

a. each city and parish school board for the high schools under their jurisdiction.

b. the principal or headmaster of each nonpublic high school approved by the State Board of Elementary and Secondary Education (BESE)

c. the principal or headmaster of eligible non-Louisiana high schools,

2. The Louisiana Department of Education shall report to LASFAC the names of students enrolled in a state-approved home study program who score in the upper 5 percent in the state on the National Merit Examination.

3. The certification form shall be completed, certified and returned to LASFAC annually.

4. The certification shall be returned to LASFAC by the deadline specified on the form.

5. The certification shall be on a form provided by LASFAC or in an electronic format pre-approved by LASFAC.

6. The certification form includes, but is not limited to, the following data elements:

a. student's name, address, phone number and social security number;

b. month and year of high school graduation;

c. final cumulative high school grade point average for all courses reflected on the transcript, converted to a maximum 4.00 scale, if applicable;

d. the number of core units earned and the number of core units unavailable to the student at the school attended;

e. the total number of graduates in the graduating class;

f. those students who graduated in the top 5 percent in accordance with §1703.C.2.a.i.

B. Certification of Cumulative High School Grade Point Average (HSGPA). High school officials are required to certify to LASFAC the final cumulative high school grade point average of each applicant and average shall be:

1. inclusive of the grades recorded for all courses on the applicant's official high school transcript;

2. each applicant's final cumulative high school grade point average must be reported on a maximum 4.00 scale.

a. The following grading conversion shall be used to report the applicant's cumulative high school grade point average:

i. letter grade A = 4 quality points;

ii. letter grade B = 3 quality points;

iii. letter grade C = 2 quality points;

iv. letter grade D = 1 quality point.

b. Schools which award more than 4 quality points for a course must convert the course grade to a maximum 4.00 scale using the formula described in the example that follows. [In this example, the school awards one extra quality point for an honors course.]

i. Example. An applicant earned a C in an Honors English IV course and received 3 out of the 5 possible quality points that could have been awarded for the course.

ii. In converting this course grade to a standard 4.00 maximum scale, the following formula must be used:

$$\frac{\text{Quality Points Awarded for the Course}}{\text{Maximum Points Possible for the Course}} \cdot \frac{X (\text{Converted Quality Points})}{4.00 (\text{Maximum Scale})}$$

$$\frac{3.00 \cdot X}{5.00 \cdot 4.00}$$

By cross multiplying,

$$5X \cdot 12; X \cdot 2.40$$

iii. In this example, the quality points for this Honors English IV course should be recorded as 2.40 when the school calculates and reports the student's cumulative high school grade point average.

C. Certifying Graduates for the TOPS Performance Award

1. Policies for Determining the Top 5 Percent of Each Graduating Class. City and parish school boards, nonpublic high schools, special school governing boards, and LASFAC on behalf of eligible non-Louisiana high schools, shall adopt, publish and forward to LASFAC criteria for ranking graduates and determining the top 5 percent of the graduating class for high schools under their jurisdiction. Such criteria shall:

a. consider only the academic grades for those courses recorded on the student's official high school transcript; and

b. define the academic courses which are to be considered in determining academic class ranking; and

c. define the procedure by which students who would otherwise have equal academic class ranking may be ranked (tie-breaker procedure). This may include an evaluation of students' academic grades on a set of predetermined core academic courses such as English, math and science or an

evaluation of the level of difficulty of the courses taken by the students, such as honors courses and higher level math or science courses; and

d. be adopted by an affirmative act taken during a public meeting.

2. Formula for Determining the Number of Graduates in the Top 5 Percent

a. In computing the top 5 percent of each Louisiana high school's graduating class, apply the following formula to compute the maximum number of graduates who may rank in the top 5 percent for the purposes of the performance award:

i. the total number of students who are Louisiana residents receiving high school diplomas from the institution during the academic year preceding the award year, multiplied by the figure 0.05, and, if not a whole number, rounded up to the next whole number. Foreign exchange students and other nonresidents shall not be counted as members of the graduating class for the purpose of this computation.

ii. Example. For a high school that awarded state high school diplomas to two summer graduates, seven midyear graduates and 79 spring graduates during the academic year, the following computation would apply.

$$(2\%7\%79) \cdot 88; (88 \times 0.05) \cdot 4.4;$$

4.4 rounds up to 5.0

iii. Accordingly, five students may be selected for the performance award at the high school depicted in the example.

b. In computing the top 5 percent of each eligible non-Louisiana high school's graduating class and calculating the number of Louisiana residents to be named as performance award recipients, apply the following formulas.

i. The total number of students, both Louisiana residents and non-Louisiana residents, receiving a high school diploma from the institution during the academic year preceding the award year, multiplied by the figure 0.05, and, if not a whole number, rounded up to the next whole number. Example:

$$\text{Total Graduates} \cdot 69; (69 \times 0.05) \cdot 3.45;$$

rounds up to 4.0

ii. The number of academic year graduates who are Louisiana residents funded through the Louisiana Minimum Foundation Program (MFP), multiplied by the figure 0.05, and, if not a whole number, rounded up to the next whole number. (Louisiana resident graduates not funded through MFP shall not be counted in this calculation). Example:

$$\text{MFP Graduates} \cdot 23; (23 \times 0.05) \cdot 1.15$$

rounds up to 2.0

iii. To be certified as a performance award recipient, the student must rank both in the top 5 percent of the non-Louisiana high school's total academic year graduating

class, as well as in the top 5 percent of MFP-funded Louisiana residents in the graduating class.

iv. In the examples provided above, the maximum number of Louisiana residents to be certified for the performance award is two, and the minimum number is zero. If only one Louisiana resident ranked in the top 5 percent (4 of 69) of the total graduates, then only one student could be certified to the performance award. Conversely, if three Louisiana residents ranked in the top 5 percent (4 of 69), only the top two of these three could be certified.

3. Ensure that the approved selection criteria are publicly posted in each high school under the board or headmaster's jurisdiction and provide a copy of the criteria to LASFAC.

4. Ensure that amendments to the criteria, as approved by the board or headmaster, shall only be effective for the years following the year in which amended.

5. Certifying Students for the TOPS Performance Award. Of the students ranked in the top 5 percent of their graduating class in accordance with this §1703, only those meeting the following criteria may be listed on the certification form:

a. those students who have attained a final cumulative high school grade point average of at least a 3.50 on a 4.00 maximum scale; and

b. for graduates of the 2001 high school graduating class who have successfully completed the core curriculum as defined in Section §301.

D. Certification by Sworn Affidavit. The school board superintendent or nonpublic high school headmaster or principal shall certify by sworn affidavit that:

1. all data supplied on the certification form are true and reflect the official records of the school for the students listed; and

2. records pertaining to the listed students will be maintained and available upon request to LASFAC and the legislative auditor for a minimum of three years or until audited, whichever occurs first; and

3. the school board or school under the superintendent's or principal's jurisdiction will reimburse LASFAC for any awards disbursed to postsecondary institutions on behalf of students who were incorrectly certified.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:

**§1705. Notification of Certified Students**

A. High schools are required to present a certificate of achievement during the graduation ceremony or other school reception to students qualifying as recipients of TOPS Performance and Honors Awards.

B. High schools are required to invite members of the Louisiana Legislature representing the school's district to attend the ceremony or reception and make the presentation awarding the endorsed certificates of achievement.

C. If the certifying authority (school board, principal, headmaster or State Department of Education) elects to notify students of their certification, then the following disclaimer shall be included in any communication to the student:

"Although you have been certified as academically eligible for a Tuition Opportunity Program for Students (TOPS) Award, you must satisfy all of the following conditions to redeem a scholarship under this program:

1. You must be a Louisiana resident as defined by the Louisiana Student Financial Assistance Commission; and
2. You must be accepted for enrollment by an eligible Louisiana college or university or campus of Louisiana Technical College and be registered as a full-time undergraduate student; and
3. You must annually apply for federal student aid by the deadline required for consideration for state aid; and
4. You must have met all academic and nonacademic requirements and be officially notified of your award by the Louisiana Student Financial Assistance Commission (LASFAC)."

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:

## **Chapter 19. Responsibilities of Postsecondary Institutions**

### **§1901. Postsecondary Institution's Eligibility to Participate**

A. Louisiana two- and four-year public colleges and universities are authorized to participate in the Tuition Opportunity Program for Students (TOPS), Rockefeller State Wildlife Scholarship, State Student Incentive Grant (SSIG) and the T.H. Harris Scholarship.

B. Regionally accredited private colleges and universities which are members of the Louisiana Association of Independent Colleges and Universities, Inc. (LAICU) are authorized to participate in TOPS and SSIG. As of November 1997, LAICU membership included Centenary College, Dillard University, Louisiana College, Loyola University, Our Lady of the Lake College of Nursing and Allied Health, Our Lady of Holy Cross College, Tulane University and Xavier University.

C. Campuses of Louisiana Technical College are authorized to participate in TOPS and SSIG.

D. Approved Louisiana proprietary and beauty schools are authorized to participate in SSIG only.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:

### **§1903. Postsecondary Institution Responsibilities**

A. Certification of Student Data. Upon request by LASFAC, and for the purpose of determining an applicant's eligibility for a program award, an institution will report the following student data:

1. admission and full-time undergraduate enrollment; and
2. eligibility for, or enrollment in, a course of study leading to initial teacher certification; and
3. enrollment in math or chemistry as a major while pursuing teacher certification; and
4. graduate or undergraduate enrollment in wildlife forestry or marine science; and
5. cumulative college grade point average; and
6. cumulative college credit hours earned;
7. academic year hours earned.

B. Program Billing. Each term, institutions shall bill LASFAC for students who are recipients of a TOPS Award and who have enrolled at the institution in accordance with the following terms and conditions:

1. institutions may bill only for students certified eligible by LASFAC; and

2. institutions will bill LASFAC based on their certification that the recipient of a TOPS Award is enrolled full time, as defined in §301, as of the fourteenth class day (ninth class day for Louisiana Tech, first class day for campuses of Louisiana Technical College, and for any qualifying summer sessions as of the last day to drop and receive a full refund for the full summer session). Institutions shall not bill for students who are enrolled less than full time on the fourteenth class day (ninth class day for Louisiana Tech, first class day for campuses of Louisiana Technical College, and for any qualifying summer sessions as of the last day to drop and receive a full refund for the summer session), unless the student qualifies for payment for less than full-time enrollment as defined in §2103.B. Students failing to meet the full-time enrollment requirement are responsible for reimbursing the institution for any awards received. Refunds of awards to students who are not receiving federal Title IV aid, for less than full-time enrollment after the fourteenth class day, shall be returned to the state. Refunds to students who are receiving federal Title IV aid shall be refunded to the state in accordance with the institution's federal Title IV aid refund procedures; and

3. institutions will not bill LASFAC for any awardee who has elected to accept a full tuition waiver or award from another source which is specifically designated for tuition only; and

4. to prevent the student's total financial assistance from exceeding the institution's cost of education or some other limitation established by the institution which may be less than the cost of education, the institution may reduce the amount of the award to be paid by the TOPS Opportunity, Performance, Honors or Teacher Awards and subsequently billed to LASFAC; and

5. annually, two- and four-year institutions are required to provide LASFAC a current fee schedule, as defined in §301, for TOPS billing purposes. The schedule must include:

- a. the total cost of tuition, which shall not include any fees charged by the institution that are in addition to the basic course enrollment charges, as defined in §301; and

- b. an itemized description of the composition of the mandatory fees listed on the fee schedule must also be supplied;

6. campuses of Louisiana Technical College are exempt from furnishing a schedule of fees, but must bill LASFAC on the first class day of each quarter for three times the monthly amount established by the Board of Elementary and Secondary Education (BESE) for full-time attendance; and

7. certify that the institution will reimburse LASFAC for any award funds incorrectly disbursed to ineligible students; and

8. upon the school's certification that a recipient of a TOPS Award is enrolled full time, institutions may bill for

and LASFAC will reimburse the institution for each such recipient as follows:

a. public two- and four-year colleges and universities may bill for an amount up to the maximum amount listed on the approved fee schedule at that institution;

b. Louisiana Technical College campuses may bill each quarter for three times the monthly amount established by the Board of Elementary and Secondary Education (BESE) for full-time attendance;

c. LAICU member colleges and universities may bill for an amount up to the average public tuition amount, as defined in §301;

d. for recipients of the performance and honors awards, institutions may bill LASFAC for the stipend that accompanies these awards, in the amounts of \$200 or \$400 per semester, respectively;

e. Louisiana Technical College campuses may not bill LASFAC for stipends.

C. Annual Application for Participation in, and Certification of Recipients of, the SSIG Program

1. Annually, LASFAC forwards SSIG institutional participation agreements to those schools participating in the program during the prior award year and, upon written requests received, to schools not participating in the SSIG Program during the prior award year. To be eligible for allotment of SSIG funds the institution must meet all of the following requirements:

a. complete and return the annual SSIG application by the specified deadline; and

b. certify that students and parents will not be charged a fee for the collection of information used to determine the student's eligibility for SSIG; and

c. certify that students listed on the recipient roster meet federal, state and institutional specific SSIG eligibility criteria; and

d. certify that if the institution's SSIG allotment is based in part on the financial need of independent students, as defined by the U.S. Department of Education, a reasonable portion of the institution's allotment is being made available to independent students; and

e. certify that each SSIG recipient's total package of aid does not exceed the student's financial need; and

f. certify that SSIG funds recovered from overawards, refunds, and/or repayments, as defined in §301, during the applicable award period shall be returned to LASFAC to be reissued to other qualified students. Funds recovered from overawards, refunds and/or repayments after the applicable award period shall be returned to LASFAC for return to the U.S. Department of Education and/or the state of Louisiana. The amount of overaward, refund and/or repayment shall be determined according to the school's policy established in accordance with federal regulations.

2. Annually, LASFAC provides eligible institutions an official allotment schedule, recipient roster and institution certification forms. Institutions are required to:

a. complete and return recipient rosters and institutional certification forms to ensure expenditure of allotted SSIG awards by the school specific deadlines of

November 1 for public and LAICU member two- and four-year colleges and universities and January 1 for campuses of Louisiana Technical College and proprietary institutions; and

b. submit changes to the recipient roster by completing a replacement roster, provided by LASFAC; and

c. certify that if any SSIG funds are released in error to ineligible students, the institution will either recover the award amount from the students and refund to LASFAC or remit the refund due.

D. Disbursement of Funds. Upon receipt of award funds and prior to their disbursement to students, the institution will:

1. for TOPS Teacher Award recipients:

a. verify that the recipient is enrolled full time, in an approved degree program or course of study leading to a degree in education or alternative program leading to regular certification as a teacher at the elementary or secondary level; or

b. if designated as a math or chemistry major, verify enrollment in a course of study leading to certification as a math or chemistry teacher;

2. for Rockefeller State Wildlife Scholarship recipients verify undergraduate or graduate enrollment, whichever is applicable to the student, in

a. wildlife; or

b. forestry; or

c. marine science; or

d. other major specified by the Louisiana Department of Wildlife and Fisheries as meeting their criteria for receipt of scholarship funds;

3. release award funds by crediting the student's account within 14 days of the institution's receipt of funds or disbursing individual award checks to recipients as instructed by LASFAC. Individual award checks for the T.H. Harris Scholarship, Rockefeller State Wildlife Scholarship, TOPS Teacher Award and SSIG must be released to eligible recipients within 30 days of receipt by the school or be returned to LASFAC.

E. Reporting of Academic Data. At the conclusion of each academic year, the institution will complete and return to LASFAC, a College Academic Grade Report, including but not limited to the following data elements:

1. academic year hours earned; and

2. cumulative hours earned; and

3. cumulative grade point average;

4. academic standing and, if applicable, date of placement on academic probation; and

5. upon graduation, degree date and type and name of degree.

F. Records Retention. Records pertaining to the students listed on the billing certification form will be subject to audit as required by state statute. Such records will be maintained for a minimum of three years and be available upon request to LASFAC and the Louisiana legislative auditor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:

## Chapter 21. Miscellaneous Provisions and Exceptions

### §2101. Academic Suspension of Awards and

#### Reinstatement

A. Students denied an award for their failure to maintain the required cumulative college grade point average and academic good standing may be reinstated upon attainment of the required cumulative grade point average and the lifting of academic probation provided that the period of ineligibility did not persist for more than two years from the date of loss of eligibility.

B. Students whose TOPS Performance and Honors Awards are reinstated are ineligible for annual stipends.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:

### §2103. Exceptions to the Continuous Enrollment Requirement

A. Continuous Enrollment Requirement. To maintain eligibility, all scholarship programs require recipients to continue to enroll as full-time students, as defined in §301, each consecutive semester or quarter, excluding summer sessions and intersession, at two and four year colleges and universities. Recipients who cannot meet this requirement may be granted an exception for cause, as determined by LASFAC.

B. Less Than Full-Time Attendance. The LASFAC will authorize awards under the TOPS Opportunity, Performance, Honors and Teachers Awards and the T.H. Harris Scholarship Program for less than full-time enrollment provided that the student meets all other eligibility criteria and at least one of the following:

1. requires less than full-time enrollment to complete the undergraduate degree; or
2. is enrolled in a degree program that defines *full time* as less than 12 hours per semester or eight hours per quarter; or
3. requires less than full-time enrollment to complete requirements for a specified course of study or clinical program.

C. Procedure for Requesting Exceptions to the Continuous Enrollment Requirement

1. Recipient must submit the exception request form, with documentary evidence, within the deadline specified.
2. If determined eligible for an exception, the recipient will be awarded if he or she enrolls in the first fall, winter or sprint term immediately following the exception ending date.
3. If determined ineligible for an exception, subsequent appeals are to be processed in accordance with LASFAC's appeal procedures as defined in §2109.

D. Qualifying Exceptions to the Continuous Enrollment Requirement

1. Parental Leave
  - a. Definition. The student/recipient must be pregnant or caring for a newborn or newly-adopted child.
  - b. Certification Requirements. A completed exception request form, certified by a written statement from a doctor of medicine who is legally authorized to practice or an authorized official of the adoption agency.

- c. Acceptable Documentation. Includes dates of required leave of absence, the necessity of withdrawing, dropping hours, etc., the semester(s) or number of days involved, the length of the recovery period, the beginning and ending dates of the doctor's care, the required treatment.

- d. Filing Requirements. The student/recipient must file a completed exception request form, with the required certification and documentation, within 60 days after the occurrence of the qualifying exception.

- e. Maximum Length of Exception. Up to one academic year per child.

#### 2. Rehabilitation Program

- a. Definition. The student/recipient must be receiving rehabilitation in a program administered by a licensed rehabilitation center under a written individualized plan with specific dates of beginning and ending services.

- b. Certification Requirements. A completed exception request form, certified by a rehabilitation counselor and doctor of medicine.

- c. Acceptable Documentation. Includes dates of the required leave of absence, the necessity of withdrawing, dropping hours, etc., the semester(s) or number of days involved, the length of the recovery period, the beginning and ending dates of the doctor's care, the required treatment.

- d. Filing Requirements. The student/recipient must file a completed exception request form, with the required certification and documentation, within 60 days after occurrence of the qualifying exception.

- e. Maximum Length of Exception. Up to two academic years per occurrence.

#### 3. Temporary Disability

- a. Definition. The student/recipient must be recovering from an accident, injury, illness or required surgery that did not previously exist when he or she originally applied for the applicable scholarship and grant program(s), or his or her pre-existing condition has substantially deteriorated since the time of application, or the student/recipient's spouse, dependent, parent or guardian requires continuous care for similar conditions for at least 60 days due to an accident, illness, injury or required surgery.

- b. Certification Requirements. Certified by a doctor of medicine who is legally authorized to practice and by a completed exception request form.

- c. Acceptable Documentation. Includes dates of the required leave of absence, the necessity of withdrawing, dropping hours, etc., the semester(s) or number of days involved, the length of the recovery period, the beginning and ending dates of the doctor's care, the required treatment.

- d. Filing Requirements. The student/recipient must file a completed exception request form, with the required certification and documentation, within 60 days after occurrence of the qualifying exception.

- e. Maximum Length of Exception. Up to two academic years for recipient; up to a maximum of one academic year for care of a disabled dependent, spouse or parent.

#### 4. Internship/Residency Program

- a. Definition. The student/recipient must be enrolled in a required program that must be completed in order to begin

professional practice or service; it must be a program where the student is working toward an appropriate scholarship and grant program degree.

b. **Certification Requirements.** Certified by a written statement from an internship or residency program official and a completed exception request form.

c. **Acceptable Documentation.** Includes dates of required leave of absence from the school's dean, academic counselor, or major professor stating that the residency/internship is a requirement toward fulfilling an appropriate scholarship and grant program degree, and that the student has been accepted into the residency/internship program, the semester(s) or number of days involved, the length of the internship/residency period, the beginning and ending dates of the leave of absence.

d. **Filing Requirements.** The student/recipient must file a completed exception request form, with the required certification and documentation, within 60 days of notification of acceptance into the internship.

e. **Maximum Length of Exception.** Up to two academic years of required program or study.

#### 5. Cooperative Work/Study Program

a. **Definition.** The student/recipient must be a registered student in the appropriate school offering the cooperative work/study program. Even though the school may have entrance requirements for the cooperative work/study programs, the student/recipient must continue to meet and maintain scholarship and grant program cumulative grade point average requirements.

b. **Certification Requirements.** Certified by a written statement from the college/school official including dates of enrollment and termination and a completed exception request form.

c. **Acceptable Documentation.** Includes dates of leave of absence from the school's dean, academic counselor, or major professor stating that the student is enrolled in an official cooperative work/study program sponsored by the university, the semester(s) or number of days involved, the beginning and ending dates of the cooperative work/study program.

d. **Filing Requirements.** The student/recipient must file a completed exception request form, with the required certification and documentation, within 60 days of acceptance into the cooperative work/study program.

e. **Maximum Length of Exception.** Up to one academic year or required program of study.

#### 6. Religious Commitment

a. **Definition.** The student/recipient must be a member of a religious group that requires the student to perform certain activities or obligations which necessitate taking a leave of absence from school.

b. **Certification Requirements.** Certified by a written statement from the college official, a completed exception request form, and a statement from the religious group's governing official.

c. **Acceptable Documentation.** Includes dates of the required leave of absence from the religious group's governing official, a completed exception request form, the

necessity of withdrawing, dropping hours, etc., the semester(s) or number of days involved, the length of the religious obligation.

d. **Filing Requirements.** The student/recipient must file a completed exception request form, with the required certification and documentation, within 60 days after accepting or committing to the religious obligation.

e. **Maximum Length of Exception.** Up to two academic years.

#### 7. Death of Immediate Family Member

a. **Definition.** The student cannot attend school for at least 30 days due to recovering from the death of a spouse, parent, guardian, dependent, sister or brother or grandparent.

b. **Certification Requirements.** A written statement from the college official, a completed exception request form, and a copy of the death certificate or a doctor's or funeral director's verifying statement or a copy of the obituary published in the local newspaper.

c. **Acceptable Documentation.** Includes dates of leave of absence from the school's registrar, a doctor's statement if student/recipient care was needed, the necessity of withdrawing, dropping hours, etc., the semester(s) or number of days involved.

d. **Filing Requirements.** The student/recipient must file a completed exception request form with certification and documentation requirements within 60 days of the date of death.

e. **Maximum Length of Exception.** Up to one academic semester or two quarters per death.

#### 8. Military Service, Peace Corps, National Service Corps, VISTA

a. **Definition.** The student/recipient is called on active duty status with the United States Armed Forces or is performing emergency state service with the National Guard or is serving in the Peace Corps, National Service Corps or VISTA.

b. **Certification Requirements.** Certified by a written statement from the commanding officer or regional supervisor or certified military orders and by a completed exception request form.

c. **Acceptable Documentation.** Includes dates of required leave of absence, the necessity of withdrawing, dropping hours, etc., the semester(s) or number of days involved, the length of duty (beginning and ending dates).

d. **Filing Requirements.** The student/recipient must file a completed exception request form, with the required certification and documentation, within 60 days after receipt of military orders or letter of appointment.

e. **Maximum Length of Exception.** Up to the length of the required service period.

#### 9. Exceptional Circumstances

a. **Definition.** The student/recipient has exceptional circumstances, other than those listed in §2103.D.1-8, which are beyond his immediate control and which necessitates full or partial withdrawal from, or non-enrollment in, an eligible postsecondary institution.

b. **Certification Requirement.** Certified by a notarized statement and by a completed exception request form.

c. Acceptable Documentation. The notarized statement should include attachments of copies of all documents relevant to the exceptional circumstance.

d. Filing Requirement. The student/recipient must file a completed exception request form, with the required notarized statement and documentation, within 60 days after the occurrence of the exceptional circumstance.

e. Maximum Length of Exception. Up to one academic year.

E. Nonqualifying Exceptions. Nonqualifying Exceptions include, but are not limited to:

1. the student is unaware of the continuation renewal requirements for a program and fails to meet such requirements;

2. the student failed to timely submit an exception request form for an exception to the continuous enrollment requirement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:

### **§2105. Repayment Obligation, Deferment and Cancellation**

A. Monetary Repayment. Recipients of the Rockefeller State Wildlife Scholarship who do not meet their obligation to obtain a degree in wildlife, forestry or marine science and recipients of the TOPS Teacher Award who do not fulfill their obligation to teach the required number of years and who are not eligible for Discharge by Cancellation, must repay the loan principal plus accrued interest as delineated in §§1111 and 911, respectively.

B. Deferment of Repayment Obligation. Recipients of the Rockefeller State Wildlife Scholarship or TOPS Teacher Award who are in repayment status may have their payments deferred for the following reasons:

1. Parental Leave

a. Definition. The student/recipient must be pregnant or caring for a newborn or newly-adopted child.

b. Certification Requirements. Certification by a written statement from a doctor of medicine who is legally authorized to practice or an authorized official of the adoption agency.

c. Acceptable Documentation. Includes dates of required leave of absence, the number of days involved, the length of the recovery period, the beginning and ending dates of the doctor's care, and the required treatment.

d. Filing Requirements. The recipient must request by letter, with the required certification and documentation, within 60 days after the occurrence of the qualifying event.

e. Maximum Length of Deferment. Up to one academic year.

2. Rehabilitation Program

a. Definition. The recipient must be receiving rehabilitation in a program administered by a licensed rehabilitation center under a written individualized plan with specific dates of beginning and ending services.

b. Certification Requirements. Certification by a rehabilitation counselor or doctor of medicine.

c. Acceptable Documentation. Includes dates of the required leave of absence, the semester(s) or number of days involved, the length of the recovery period, the beginning and ending dates of the doctor's care, the required treatment.

d. Filing Requirements. The recipient must file a written request, with the required certification and documentation, within 60 days after occurrence of the qualifying treatment.

e. Maximum Length of Deferment. Up to two academic years.

3. Temporary Disability of Recipient, Child, Parent, Spouse, or Guardian

a. Definition. Temporary total disability of recipient or recipient's dependent, parent, guardian or spouse of whom recipient is primary care-giver.

b. Certification Requirements. Certification by a qualified physician.

c. Acceptable Documentation. Includes dates of the required leave, the length of the recovery or disability period, the beginning and ending dates of the doctor's care, the required treatment.

d. Filing Requirements. The recipient must file a written request with the required certification and documentation no earlier than 30 days but within 60 days after the occurrence of disability.

e. Maximum Length of Deferment. A deferment under §2105.B.3 for Temporary Disability of the Maker shall not exceed 36 months. A deferment under §2105.B.3 for Temporary Disability of any other person shall not exceed 12 months.

4. Military Service, Peace Corps, National Service Corps, VISTA

a. Definition. The recipient is called on active duty status with the United States Armed Forces or is performing emergency state service with the National Guard or is serving in the Peace Corps, National Service Corps or VISTA.

b. Certification Requirements. Certified by a written statement from the commanding officer or regional supervisor or certified military orders.

c. Acceptable Documentation. Includes dates of required leave of absence, the semester(s) or number of days involved, the length of duty (beginning and ending dates).

d. Filing Requirements. The student/recipient must file a written request with the required certification and documentation, within 60 days after receipt of military orders or letter of appointment.

e. Maximum Length of Deferment. Up to the length of the required service period.

5. Recipient is engaging in a full-time course of study at an institution of higher education at the baccalaureate level or higher. A deferment under §2105.B.5 shall not exceed 36 months; or

6. Recipient is:

a. seeking and unable to find full-time employment for a single period not to exceed 12 months; or

b. seeking and unable to find full-time teaching employment at a qualifying Louisiana school for a period of time not to exceed 27 months; or

C. Cancellation of Repayment Obligation. Upon submission of applicable proof, loans may be canceled for the following reasons:

1. death of the recipient;
2. complete and permanent disability of the recipient which precludes the recipient from gainful employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:

### **2107. Funding and Fees**

#### A. Limitation of Terms Funded

1. Routine funding for all Scholarship and Grant Programs is limited to the fall, winter and spring school terms.

2. Extensions will be granted for the TOPS Opportunity, Performance, and Honors Awards for an institution's educational programs that require recipients to attend summer sessions to complete the program's mandatory courses when such courses are not offered during regular terms.

B. Fees. The LASFAC may charge a variable fee not to exceed \$10 for each award check processed for recipients of the T.H. Harris Scholarship. This fee will be charged only if the Louisiana Legislature fails to appropriate sufficient state general funds for administration of this program. The LASFAC, at its discretion, may automatically deduct the fee from each T.H. Harris Scholarship award check.

C. Less than Full-Time Attendance. The LASFAC will authorize awards under the TOPS Opportunity, Performance, Honors and Teachers Awards and the T.H. Harris Scholarship Program for less than full-time enrollment provided that the student meets all other eligibility criteria and at least one of the following:

1. requires less than full-time enrollment to complete the undergraduate degree; or
2. is enrolled in a degree program that defines *full time* as less than 12 hours per semester or eight hours per quarter; or
3. requires less than full-time enrollment to complete requirements for a specified course of study or clinical program.

#### D. Insufficient Funds Appropriated

1. All State Scholarship and Grant Program Awards are contingent upon the annual appropriation of funds by the Louisiana Legislature.

2. In the event appropriated funds are insufficient to fully reimburse institutions for tuition awards and stipends for all students determined eligible for the TOPS Opportunity and Honors Awards for a given academic year, funding shall be allocated in the following priority:

- a. the number of students to whom awards shall be made shall be reduced by the number necessary to remain within budgetary expenditure authority;
- b. those students from families with the greatest ability to pay the student's tuition, as evidenced by the adjusted gross income reported by the family on the prior year's state and federal tax returns, shall be denied an award.
- c. funding is provided first to those students determined to have the most need, as evidenced by their families' smaller adjusted gross income;

d. from among those students otherwise eligible who are denied an award, those students whose families have the least capacity to pay, as evidenced by their families' lower adjusted gross income, shall be the first to receive an award if monies become available.

E. Stop Payment of Uncleared Checks. The LASFAC may stop payment on checks which are issued as scholarship or grant awards but not negotiated by September 1 following the close of the academic year for which they were issued.

F. Transferability of Funds. A student receiving an award under the Tuition Opportunity Program for Students (TOPS), Rockefeller State Wildlife Scholarship and/or the T.H. Harris Scholarship may have his award transferred to another postsecondary institution which is authorized to participate in these programs, as described in §1901. The student must meet all continuation requirements and submit a Scholarship and Grant Transfer Request Form.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:

### **§2109. Appeal of Adverse Discretionary Decisions**

#### A. Appeal of Adverse Discretionary Decisions Policy

1. The Louisiana Student Financial Assistance Commission (LASFAC or commission) has established a formal appeal process consistent with the Louisiana Administrative Procedure Act by which aggrieved parties may appeal an agency adverse discretionary decision. An agency adverse discretionary decision is a decision made by agency staff based on an interpretation of legislative or regulatory intent and which has an adverse impact on an applicant or participant in a program administered by the commission. An applicant or program participant who believes the agency has incorrectly interpreted legislative or regulatory intent in making a decision and, said decision having adversely affected the applicant or participant, may file an appeal.

2. The appeal process allows for an initial review or hearing to be held by a hearing officer or an appeal committee appointed by the commission, depending upon the level of review requested.

3. If after the decision of the appeal committee or hearing officer the appellant is not satisfied, then he will have the right to seek review of the decision by the full commission.

4. If the commission refuses to review the decision of the hearing officer or the appeal committee, then the aggrieved party has the right to seek a rehearing on the matter by the full commission.

5. If the application for a rehearing is denied, then the aggrieved party has the right to seek judicial review.

#### B. Appeal of Adverse Discretionary Decisions Procedure

1. Adverse discretionary decisions made by the Louisiana Office of Student Financial Assistance may be appealed to the Louisiana Student Financial Assistance Commission.

a. Petitions for appeal must be in writing and filed within 30 days of notice of the decision or, if no notice is given within 30 days from becoming aware of or the date the

aggrieved party should have been aware of the adverse decision.

b. The appeal must be addressed to the Executive Director, Office of Student Financial Assistance and sent to Box 91202, Baton Rouge, LA 70821-9202, or hand delivered to the physical address of LASFAC in Baton Rouge.

c. Appeals may not be supplemented or amended after the lapse of 30 days. An appellant has the right to file a written appeal or have his appeal heard orally. Requests for an oral hearing must be made within the 30-day time period to file the appeal.

i. If no request for an oral hearing is made, then the appellant may submit documentation and/or written memorandum to support his appeal at least 15 days prior to the review of the commission or the appeal committee appointed by the commission. Appellant will be notified at least 30 days prior to the date of the review by the commission or the appeal committee appointed by the commission. The commission or the appeal committee will review all the evidence submitted and render a decision.

ii. If the appellant requests an oral hearing, then appellant will be given at least 30 days prior notice of the hearing. The commission shall appoint a hearing officer to hear the appeal of the appellant. All hearings shall be conducted in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

2. If after the review of the appeal committee or after a hearing held before the hearing officer a decision adverse to the appellant is made, then appellant may seek to have the decision reviewed by the full commission.

a. The application for review must be made within 15 days of appellant receiving notice of the decision. The appellant may submit exceptions, written arguments or briefs to support the application for review.

b. No oral hearing shall be held at this level of review. All action is stayed pending review by the full commission.

i. If the full commission denies the application for review, then the action becomes final as of the date of the denial for review.

ii. If the full commission denies the application for review then it shall set a hearing date to review the decision of the hearing officer.

3. The appellant may seek a rehearing of an adverse decision made by the full commission. The request for rehearing must conform to the provisions and time limits set by R.S. 49:959. An application for rehearing does not stay any action taken by the commission.

4. Oral Hearing. All hearings shall be held pursuant to the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

a. On the day of the oral hearing appellant and appellee shall be prepared to start the hearing at the time specified in the notice of hearing.

b. The hearing may be continued for good cause provided a written request for extension is received at the commission at least seven days prior to the date of the hearing.

i. All parties will be notified of a rescheduling or postponement of the hearing.

ii. Failure to be present at the hearing and ready to proceed may result in an adverse decision against the nonappearing party.

iii. Strict rules of evidence will not apply in these hearings. The appellant shall have the following rights at the hearing:

(a). the right to present testimony, introduce evidence, and call witnesses on his behalf;

(b). the right to cross exam witnesses called by the agency;

(c). the right to subpoena witnesses;

(d). the right to take depositions;

(e). prior to the hearing, the right and the opportunity to review agency records that are relevant to his appeal; and to make copies of those records at a cost of \$.20 per page;

(f). the right to be represented by counsel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:

Interested persons may submit written comments on the statement until 4:30 p.m., February 20, 1998 to Jack L. Guinn, Executive Director, Office of Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Jack L. Guinn  
Executive Director

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: Tuition Opportunity Program for Students

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

Estimated costs to implement the program for FY 97-98 are \$6,240; for FY 98-99, \$13,313,321; and for FY 1999-2000, \$17,723,748. This includes an estimated \$6,240 for publication in the *Louisiana Register* in FY 1997-98; salaries for three positions of \$114,113 in FY 1998-99, and \$118,678 in FY 1999-2000; the costs for operating expenses, equipment, and professional services are expected to be \$64,337 in FY 1998-99 and \$37,292 in FY 1999-2000. Also included is \$13,134,871 in FY 1998-99 and \$17,567,778 in FY 199-2000 for the scholarship awards.

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

No impact on revenue collections is anticipated to result from this action.

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

This proposed rule establishes procedures whereby students may apply for the Tuition Opportunity Program for Students (TOPS) award.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

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

Jack L. Guinn  
Executive Director  
9801#079

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Environmental Quality  
Office of Air Quality and Radiation Protection  
Air Quality Division**

Comprehensive Toxic Air Pollutant Emission Control Program (LAC 33:III.5101, 5103, 5107, 5112)(AQ169)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Division regulations, LAC 33:III.5101, 5103, 5107, 5122 (AQ169).

This proposed rule revises text to clarify the air toxic regulations, to correct some misspelled words, to revise paperwork requirements, and to revise the release reporting requirements during control equipment bypassing events. The rule also delists caprolactam from the Toxic Air Pollutants Supplemental List because EPA delisted this compound from the Clean Air Act Section 112 list of Hazardous Air Pollutants; also, there are no sources in Louisiana reporting caprolactam.

The basis and rationale for this proposed rule is to clarify the intent of the regulations and to reduce some of the reporting and paperwork requirements. The basis and rationale for delisting caprolactam are to mirror the federal regulations.

This proposed rule meets the exceptions listed in R.S. 30:2019(D)(3) and R.S.49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

**Title 33**

**ENVIRONMENTAL QUALITY**

**Part III. Air**

**Chapter 51. Comprehensive Toxic Air Pollutant Emission Control Program**

**Subchapter A. Applicability, Definitions, and General Provisions**

**§5101. Applicability**

The provisions of this Subchapter apply to the owner or operator of any major source, as defined herein. The provisions of LAC 33:III.5105.A, 5107.A, B, and C, 5111.A.4, and 5113 apply to the owner or operator of any stationary source which was a major source upon promulgation of this Subchapter but which has achieved minor source status through reduction of emissions and reduction of potential to emit. Effective upon promulgation of applicable source category rules in accordance with R.S. 30:2060, the provisions of this Subchapter apply to the owner or operator of any minor

source, if specified by such rules. The provisions of this Subchapter do not apply to the consumer use, in a duration and frequency intended by the manufacturer, of products obtained through retail commerce, or to activities conducted on residential property. The provisions of this Subchapter do not apply to the distribution or application of pesticides.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2060 and R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18:1362 (December 1992), LR 23:56 (January 1997), LR 24:

**§5103. Definitions, Units, and Abbreviations**

A. The terms in this Subchapter are used as defined in LAC 33:III.111 except for those terms defined herein as follows:

\* \* \*

[See Prior Text]

*Major Source*—any stationary source (including all emission points and units of such source located within a contiguous area and under common control) of air pollutants that emits, or has the potential to emit, in the aggregate, 10 tons per year or more of any toxic air pollutant or 25 tons per year or more of any combination of toxic air pollutants listed in Table 51.2.

\* \* \*

[See Prior Text in A.Maximum Achievable Control Technology (MACT) - B.4]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2060 and R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18:1362 (December 1992), LR 23:57 (January 1997), LR 24:

**§5107. Reporting Requirements, Availability of Information, and Public Notice Provisions**

\* \* \*

[See Prior Text in A-B.1]

2. Emission Control Bypasses. Except as provided in Subsection B.6 of this Section, for any unauthorized discharge into the atmosphere of a toxic air pollutant as a result of bypassing an emission control device, where the emission control bypass was not the result of an upset, the owner or operator of the source shall notify the Air Quality Division of the bypass by telephone no later than 24 hours after the beginning of the bypass at (504) 765-0219. In the event the Air Quality Division is unable for any reason(s) to receive the notification as required, the owner or operator shall notify the department at (504) 342-1234 within 24 hours after the beginning of the bypass.

\* \* \*

[See Prior Text in B.3-D.2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2060 and R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18:1363 (December 1992), LR 19:890 (July 1993), amended by the Office of the Secretary, LR 19:1022 (August 1993),

repromulgated LR 19:1142 (September 1993), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:58 (January 1997), LR 24:

**§5112. Tables**

Table 51.1 Minimum Emission Rates Toxic Air Pollutants			
CLASS I - Known and Probable Human Carcinogens			
Compounds	Cas Number	Synonyms	Minimum Emission Rate (Pounds/ Year)
* * *			
[See Prior Text in Acrylonitrile -Nickel (and compounds) [1]]			
Nickel (refinery dust) [1]	7440-02-0		25.0
* * *			
[See Prior Text in Propylene Oxide-Vinyl Chloride]			

CLASS II - Suspected Human Carcinogens and Known or Suspected Human Reproductive Toxins			
Compounds	Cas Number	Synonyms	Minimum Emission Rate Pounds/ Year
***			
[See Prior Text in Acetaldehyde-Trichloroethylene]			
Vinylidene Chloride	75-35-4	1, 1-dichloroethylene	1,500.0
* * *			
[See Prior Text in Xylene (mixed isomers) [9]-Zinc (and compounds) [1]]			

\* \* \*

[See Prior Text in Table 51.1.Class III.Acute and Chronic (Non-Carcinogenic) Toxins-Table 51.2.Explanatory Note [12]]

Table 51.3 Louisiana Toxic Air Pollutants Supplemental List*			
Compounds	Cas Number	Class	Synonyms
* * *			
[See Prior Text in Acetamide-Bromoform]			
Calcium Cyanamide	156-62-7	III	
Captan	133-06-2	II	
* * *			
[See Prior Text in Carbaryl-1,3-Propane Sultone]			
beta-Propiolactone	57-57-8	II	2-oxetanone
* * *			
[See Prior Text in Propoxur-Vinyl Bromide]			

\* \* \*

[See Prior Text in Explanatory Notes]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2060 and R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:1331 (December 1995), amended LR 24:

A public hearing will be held on February 27, 1998, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability

need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (504)765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by AQ169. Such comments must be received no later than March 6, 1998, at 4:30 p.m., and should be sent to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70884 or to FAX (504)765-0486. Copies of this proposed regulation can be purchased at the above referenced address.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.:

7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; or on the Internet at <http://www.deq.state.la.us/olae/irdd/olaeregs.htm>.

Gus Von Bodungen  
Assistant Secretary

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

**RULE TITLE: Comprehensive Toxic Air Pollutant Emission  
Control Program**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
No implementation costs (savings) from this proposed rule on state or local government are anticipated.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There is no effect on state or local governmental revenue collections from this rulemaking.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
No costs and no significant economic benefits on nongovernmental groups by this rulemaking are anticipated.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There is no effect on competition and employment from this rulemaking.

Gus Von Bodungen  
Assistant Secretary  
9801#045

Richard W. England  
Assistant to the  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Environmental Quality  
Office of Air Quality and Radiation Protection  
Air Quality Division**

**Hazardous Air Pollutant (HAP) Control Technology  
Requirements for New Sources (LAC 33:III.551)(AQ168)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Division regulations, LAC 33:III.551 (AQ168).

As required by section 112(g) of the Clean Air Act, all new major sources of air toxics are required to have a case-by-case maximum achievable control technology (MACT) determination when no federal MACT emission limitation has

been promulgated. The state is required by Louisiana's part 70 Operating Permit Program and 40 CFR part 63, subpart B, to adopt a 112(g) program that complies with the requirements of 40 CFR part 63, sections 63.40-63.44. This proposed rule, adopting and implementing the 112(g) program, carries out those requirements by requiring new major sources of air toxics to do MACT prior to EPA establishing a federal MACT standard. This proposed rule provides the affected facilities with direction and instruction in regards to applicability determinations, application requirements, and administrative procedures. In addition to adopting and implementing this proposed rule by June 28, 1998, the department must also certify to EPA that this program meets all requirements in 40 CFR part 63, sections 63.40-63.44. In the event the state fails to adopt this program, the state may still be able to make the case-by-case MACT determinations, or they may request that EPA make these determinations.

The basis and rationale for this proposed rule are to comply with the requirements of Louisiana's part 70 Operating Permit Program to adopt and implement the 112(g) program. Continued failure to adopt this rule could result in EPA sanctions for the state's failure to adequately administer and enforce Louisiana's part 70 Operating Permit Program.

This proposed rule meets the exceptions listed in R.S. 30:2019(D)(3) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

**Title 33  
ENVIRONMENTAL QUALITY**

**Part III. Air**

**Chapter 5. Permit Procedures**

**§551. Hazardous Air Pollutant (HAP) Control  
Technology Requirements for New Sources**

A. Applicability. The provisions of this Section apply to any owner or operator who constructs or reconstructs a major source of hazardous air pollutants after June 29, 1998. The provisions of this Section do not apply to major sources specifically regulated or exempted from regulation under a standard issued in accordance with section 112(d), 112(h), or 112(j) of the Clean Air Act and incorporated in 40 CFR part 63 or to major sources for which the owner or operator has received all necessary air quality permits for construction or reconstruction prior to June 29, 1998.

B. Definitions. The terms used in this Section have the meaning given to them in LAC 33:III.111 and 5103, the Clean Air Act, and 40 CFR part 63, subpart A except for those terms defined herein as follows:

*Affected Source*—the stationary source or group of stationary sources that, when fabricated, erected, or installed (on-site), meets the definition of "construct a major source" or the definition of "reconstruct a major source" contained in this Section.

*Available Information*—for the purposes of identifying control technology options for the affected source, information contained in the following information sources as of the date of approval of the MACT determination by the department:

- a. a relevant proposed regulation, including all supporting information;
- b. background information documents for a draft or proposed regulation;
- c. data and information available for the Control Technology Center developed in accordance with section 113 of the Clean Air Act;
- d. data and information contained in the Aerometric Information Retrieval System, including information in the MACT database;
- e. any additional information that can be expeditiously provided by the administrator; and
- f. for the purpose of determinations by the department, any additional information provided by the applicant or others and any additional information considered available by the department.

*Construct a Major Source—*

a. to fabricate, erect, or install at any greenfield site a stationary source or group of stationary sources that is located within a contiguous area and under common control and that emits, or has the potential to emit, 10 tons per year of any HAP or 25 tons per year of any combination of HAPs; or

b. to fabricate, erect, or install at any developed site a new process or production unit that in and of itself emits, or has the potential to emit, 10 tons per year of any HAP or 25 tons per year of any combination of HAPs, unless the process or production unit satisfies the following criteria:

i. all HAPs emitted by the process or production unit that would otherwise be controlled under the requirements of this Section are controlled by emission control equipment that was previously installed at the same site as the process or production unit;

ii. the department determines:

(a). within a period of five years prior to the fabrication, erection, or installation of the process or production unit, that the existing emission control equipment represents the best available control technology (BACT), lowest achievable emission rate (LAER) under 40 CFR part 51 or 52, toxics-best available control technology (T-BACT), or MACT based on state air toxics rules for the category of pollutants that includes those HAPs to be emitted by the process or production unit; or

(b). that the control of HAP emissions provided by the existing equipment will be equivalent to that level of control currently achieved by other well-controlled similar sources (i.e., equivalent to the level of control that would be provided by a current BACT, LAER, T-BACT, or state air toxic rule determination);

iii. the department determines that the percent control efficiency for emissions of HAP from all sources to be controlled by the existing control equipment will be equivalent to the percent control efficiency provided by the control equipment prior to the inclusion of the new process or production unit;

iv. the department provides notice and an opportunity for public comment concerning its determination that criteria in §551.B.*Construct a Major Source*.b.i-iii apply and concerning the continued adequacy of any prior BACT, LAER, T-BACT, or state air toxic rule MACT determination;

v. if any commentor has asserted that a prior BACT, LAER, T-BACT, or state air toxic rule MACT determination is no longer adequate, the department shall determine that the level of control required by that prior determination remains adequate; and

vi. any emission limitations, work practice requirements, or other terms and conditions upon which the above determinations by the department are applicable requirements under section 504(a) of the Clean Air Act either have been incorporated into any existing Title V permit for the affected facility or will be incorporated into such permit upon issuance.

*Control Technology*—measures, processes, methods, systems, or techniques to limit the emissions of HAPs through process changes, substitution of materials, or other modifications which:

a. reduce the quantity of, or eliminate emissions of, such pollutant through process changes, substitution of materials, or other modifications;

b. enclose systems or processes to eliminate emissions;

c. collect, capture, or treat such pollutants when released from a process, stack, storage, or fugitive emissions point;

d. are design, equipment, work practice, or operational standards (including requirements for operator training or certification) as provided in 42 U.S.C. 7412(h); or

e. are the combination of §551.B.*Control Technology*.a-d.

*Electric Utility Steam Generating Units*—any fossil fuel-fired combustion unit, of more than 25 megawatts, that serves a generator that produces electricity and supplies more than one third of its potential electrical output capacity and more than 25 megawatts electrical output to any utility power distribution system for sale.

*Greenfield Site*—a contiguous area under common control that is an undeveloped site.

*Maximum Achievable Control Technology (MACT) Emission Limitation for New Sources*—the emission limitation that is not less stringent than the emission limitation achieved in practice by the best controlled similar source and that reflects the maximum degree of reduction in emissions that the department, taking into consideration the cost of achieving such emission reduction and any non-air quality health and environmental impacts and energy requirements, determines is achievable by the constructed or reconstructed major source.

*Process or Production Unit*—any collection of structures and/or equipment that processes, assembles, applies, or otherwise uses material inputs to produce or store an intermediate or final product. A single facility may contain more than one process or production unit.

*Reconstruct a Major Source*—the replacement of components at an existing process or production unit that in and of itself emits, or has that potential to emit, 10 tons per year of any HAP or 25 tons per year of any combination of HAPs whenever:

a. the fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be

required to construct a comparable process or production unit; and

b. it is technically and economically feasible for the reconstructed major source to meet the applicable maximum achievable control technology emission limitation for new sources established under this Subsection.

*Research and Development Activities*—activities conducted at a research or laboratory facility whose primary purpose is to conduct research and development into new processes and products, where such source is operated under the close supervision of technically trained personnel and is not engaged in the manufacture of products for sale or exchange for commercial profit, except in a de minimis manner.

*Similar Source*—a stationary source or process that has comparable emissions and is structurally similar in design and capacity to a constructed or reconstructed major source such that the source could be controlled using the same control technology.

C. Exemptions and Prohibitions. The requirements of this Section do not apply to:

1. electric utility steam generating units unless and until such time as these units are added to the source category list in accordance with section 112(c)(5) of the Clean Air Act;

2. stationary sources that are within a source category that has been deleted from the source category list in accordance with section 112(c)(9) of the Clean Air Act; and

3. research and development activities, as defined herein.

#### D. Source Obligation

1. No person may begin actual construction or reconstruction of a major source of hazardous air pollutants after June 29, 1998, unless the owner or operator obtains or revises a permit issued in accordance with Louisiana's part 70 Program (LAC 33:III.507) and follows the administrative procedures of that program; and

a. the department has made a final and effective case-by-case determination in accordance with the provisions of this Section such that emissions from the affected source will be controlled to a level no less stringent than the MACT emission limitation for new sources; or

b. the major source in question is specifically regulated by or exempted from regulation under a standard issued in accordance with section 112(d), 112(h), or 112(j) of the Clean Air Act and incorporated in 40 CFR part 63.

2. The owner or operator may request approval of case-by-case MACT determinations for alternative operating scenarios. Approval of such data satisfies the requirements of this Section for each such scenario.

3. The MACT emission limitation and requirements established shall be effective as required by, supported by information listed in §551.E and consistent with principles established in §551.E. The owner or operator shall comply with requirements in §551.G and J, and with all applicable requirements in 40 CFR part 63, subpart A.

E. Principles of Case-by-Case MACT Determinations. The following general principles shall govern preparation of each

permit application requiring a case-by-case MACT determination concerning construction or reconstruction of a major source and all subsequent review of and actions taken concerning such an application by the department:

1. the MACT emission limitation or MACT requirements recommended by the applicant and approved by the department shall not be less stringent than the emission control that is achieved in practice by the best controlled similar source as determined by the department;

2. based upon available information, the MACT emission limitation and control technology (including any requirements under §551.E.3) recommended by the applicant and approved by the department shall achieve the maximum degree of reduction in emissions of hazardous air pollutants that can be achieved by utilizing those control technologies that can be identified from the available information, taking into consideration the costs of achieving such emission reduction, any non-air quality health and environmental impacts, and energy requirements associated with the emission reduction;

3. the applicant may recommend a specific design, equipment, work practice, operational standard, or a combination thereof. The department may approve such a standard based on these recommendations if the department specifically determines that it is not feasible to prescribe or enforce an emission limitation as defined herein; and

4. if the administrator has either proposed a relevant emission standard in accordance with section 112(d) or 112(h) of the Clean Air Act or adopted a presumptive MACT determination for the source category that includes the constructed or reconstructed major source, then the MACT requirements applied to the affected source shall have considered those MACT emission limitations and requirements of the proposed standard or presumptive MACT determination.

F. Application Requirements for Case-by-Case MACT Determination

1. The application shall specify a control technology selected by the owner or operator that, if properly operated and maintained, will meet the MACT emission limitation or standard as determined by §551.E.

2. In the event that an affected source would require additional control technology or a change in control technology, the application for a MACT determination shall contain the following information:

a. identifying information, including company name, physical address and mailing address, facility name and address, if different from the company, a map showing the location of the facility, owner's and operator's names and agent, and telephone number and name of plant manager or contact;

b. a brief description of the major source to be constructed or reconstructed and identification of any listed source category or categories in which it is included;

c. the expected commencement date for the affected source;

d. the expected completion date for the affected source;

e. the anticipated date of start-up for the affected source;

f. the hazardous air pollutant emitted by the affected source and the estimated emission rate for each such hazardous air pollutant, to the extent this information is needed by the department to determine MACT;

g. any federally enforceable emission limitations applicable to the affected source;

h. the maximum and expected utilization of capacity of the affected source, to the extent this information is needed by the department to determine MACT;

i. the controlled emissions for the affected source in tons per year at expected and maximum utilization of capacity, to the extent this information is needed by the department to determine MACT;

j. a recommended emission limitation for the affected source consistent with the principles set forth in Subsection E of this Section;

k. the selected control technology to meet the recommended MACT emission limitation, including technical information on the design, operation, size, and estimated control efficiency of the control technology (and the manufacturer's name, address, telephone number, and relevant specifications and drawings, if requested by the department);

l. supporting documentation including identification of alternative control technologies considered by the applicant to meet the emission limitation, and analysis of cost and non-air quality health environmental impacts or energy requirements for the selected control technology; and

m. any other relevant information required in accordance with 40 CFR part 63, subpart A.

3. In the event that an affected source will be in compliance, upon start-up, with the case-by-case MACT provisions in accordance with this Section without a change in control technology, the application for a MACT determination shall also contain documentation of the control technology in place.

G. Compliance with MACT Determination. An owner or operator of an affected source that has obtained a MACT determination shall be deemed to be in compliance with section 112(g)(2)(B) of the Clean Air Act only to the extent that the affected source is in compliance with all part 70 permit requirements. Any violation of such requirements by the owner or operator shall be deemed by the department and by EPA to be a violation of the prohibition on construction or reconstruction in section 112(g)(2)(B) for whatever period the owner or operator is determined to be in violation of such requirements, and shall subject the owner or operator to appropriate enforcement action under the Clean Air Act.

H. Requirement for Affected Source Subject to a Subsequently Promulgated MACT Standard or MACT Requirement

1. If the administrator promulgates an emission standard under section 112(d) or 112(h) of the Clean Air Act or the department issues a determination under section 112(j) of the federal Clean Air Act that is applicable to a stationary source or group of sources that would be deemed to be an affected source under this Section before the date that the owner or operator has obtained a final and legally effective MACT

determination in accordance with this Section, the owner or operator of the source(s) shall comply with the promulgated standard or determination rather than any MACT determination in accordance with this Section and the owner or operator shall comply with the promulgated standard by the compliance date in the promulgated standard.

2. If the administrator promulgates an emission standard under Section 112(d) or 112(h) of the Clean Air Act or the department makes a determination under section 112(j) of the Clean Air Act that is applicable to a stationary source or group of sources that was deemed to be an affected source under this Section and has been subject to a prior case-by-case MACT determination in accordance with this Section and the owner or operator obtained a final and legally effective case-by-case MACT determination prior to the promulgation date of such emission standard, then the department shall issue an initial operating permit that incorporates the emission standard or determination or revise the operating permit according to the reopening procedures in LAC 33:III.529, whichever is relevant, to incorporate the emission standard or determination.

a. The EPA may include in the emission standard established under section 112(d) or 112(h) of the Clean Air Act a specific compliance date for those sources that have obtained a final and legally effective MACT determination in accordance with this Section and that have submitted the information required by this Section to the EPA before the close of the public comment period for the standards established under section 112(d) of the Clean Air Act. Such date shall assure that the owner or operator shall comply with the promulgated standard as expeditiously as practicable, but not longer than eight years after such standard is promulgated. In that event, the department shall incorporate the applicable compliance date in the part 70 permit.

b. If no compliance date has been established in the promulgated 112(d) or section 112(h) standard or section 112(j) determination of the Clean Air Act, for those sources that have obtained a final and legally effective MACT determination in accordance with this Section, then the department shall establish a compliance date in the permit that assures that the owner or operator shall comply with the promulgated standard or determination as expeditiously as practicable, but not longer than eight years after such standard is promulgated or a section 112(j) determination is made.

3. Notwithstanding the requirements of §551.H.1 and 2, if the administrator promulgates an emission standard under section 112(d) or 112(h) of the Clean Air Act or the department issues a determination under section 112(j) of the Clean Air Act that is applicable to a stationary source or group of sources that was deemed to be an affected source under this Section and that is the subject of a prior case-by-case MACT determination in accordance with this Section, and the level of control required by the emission standard issued under section 112(d) or 112(h) or the determination issued under section 112(j) is less stringent than the level of control required by any emission limitation or standard in the prior MACT determination, the department is not required to incorporate any less stringent terms of the promulgated standard in the part 70 permit applicable to such source(s) and may in its

discretion consider any more stringent provisions of the prior MACT determination to be applicable legal requirements when issuing or revising such an operating permit.

I. Effective Date of MACT Determination. The effective date of a MACT determination shall be the date of issuance of a part 70 permit incorporating a MACT determination.

J. Compliance Date. On and after the date of start-up, an affected source that is subject to the requirements of this Section shall be in compliance with all applicable requirements specified in the MACT determination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 and 2060.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 24:

A public hearing will be held on February 27, 1998, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (504) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by AQ168. Such comments must be received no later than March 6, 1998, at 4:30 p.m., and should be sent to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70884 or to FAX (504) 765-0486.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; or on the Internet at <http://www.deq.state.la.us/olae/irdd/olaeregs.htm>.

Gus Von Bodungen  
Assistant Secretary

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

##### RULE TITLE: Hazardous Air Pollutant (HAP) Control Technology Requirements for New Sources

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
No significant effect of this proposed rule on state or local government expenditures is anticipated. The proposed rule will update state regulations to maintain equivalency with federal regulations.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
No significant effect of this proposed rule on state or local governmental revenue collections is anticipated.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
This regulation would require a new major source of air toxins to install maximum achievable control technology (MACT)

upon startup. The MACT determination is to fill the gap between the startup of the facility and the promulgation of a federal MACT standard. Eventually, all facilities installing MACT due to this rulemaking would have been required to install MACT in the future. If the State fails to adopt this program, EPA will still require that these facilities do MACT. Therefore there are no additional costs or benefits to directly affected persons.

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

No significant effect of this proposed amendment on competition and employment is anticipated.

Gus Von Bodungen  
Assistant Secretary  
9801#044

Richard W. England  
Assistant to the  
Legislative Fiscal Officer

### NOTICE OF INTENT

#### Department of Environmental Quality Office of Air Quality and Radiation Protection Air Quality Division

Refinery Vacuum Producing Systems  
Exemption (LAC 33:III.2139)(AQ167)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Division regulations, LAC 33:III.2139 (AQ167).

Refinery vacuum producing systems shall be exempt from the requirements of LAC 33:III.2139 if controls are installed and maintained in accordance with a more stringent regulation. The basis and rationale for this proposed rule are to change LAC 33:III.2139 in order to eliminate unnecessary recordkeeping and reporting requirements. Facilities affected by the proposed change will comply with one set of reporting and recordkeeping requirements rather than two.

This proposed rule meets the exceptions listed in R.S. 30:2019(D)(3) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

#### Title 33 ENVIRONMENTAL QUALITY

##### Part III. Air

#### Chapter 21. Control of Emission of Organic Compounds

##### Subchapter G. Petroleum Refinery Operations

#### §2139. Refinery Vacuum Producing Systems

\* \* \*

[See Prior Text in A-B]

C. Exemptions. This Section does not apply to refinery vacuum producing systems that are required by another federal or state regulation to implement controls that reduce VOCs to a more stringent standard than would be required by this Section.

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

**NOTICE OF INTENT**

**Department of Environmental Quality  
Office of the Secretary**

Laboratory Accreditation  
(LAC 33:I.Chapters 45-57)(OS007)

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:654 (July 1991), LR 24:

A public hearing will be held on February 27, 1998, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (504)765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by AQ167. Such comments must be received no later than March 6, 1998, at 4:30 p.m., and should be sent to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70884 or to FAX (504) 765-0486.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; or on the Internet at <http://www.deq.state.la.us/olae/irdd/olaeregs.htm>.

Gus Von Bodungen  
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Refinery Vacuum Producing Systems  
Exemption**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There will be no costs or savings to state or local governmental units for this proposal.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There will be no effect on revenue collections of state or local governmental units as a result of this rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
Regulated facilities affected by the proposed rulemaking will have the benefit of fewer recordkeeping and reporting requirements.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
This proposal will not have any known effect on competition and employment.

Gus Von Bodungen  
Assistant Secretary  
9801#043

Richard W. England  
Assistant to the  
Legislative Fiscal Officer

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Office of the Secretary regulations, LAC 33:I.Subpart 3 (OS007).

The laboratory accreditation rule will require accreditation of commercial environmental laboratories by DEQ every three years. The accreditation program will require third-party laboratory audits, submission of samples for independent analysis, and inspections of regulated laboratories. The rule will also provide for quality assurance/quality control procedures, laboratory personnel qualifications, and sampling protocol and integrity. This proposed rule and the accompanying program will enhance the accuracy, reliability, and veracity of environmental laboratory data in the state. This will help to promote and maintain public, government, and customer confidence in laboratory data in Louisiana. The program will also promote improved permitting and enforcement indirectly by promoting quality data.

The basis and rationale for this proposed rule are to implement R.S. 30:2012.D(22), which provide for the secretary to promulgate regulations for certification of commercial laboratories that provide chemical analysis, analytical results, or other appropriate test data to the department required as part of any permit application, by any order of the agency, to be included in any monitoring report submitted to the agency, or by any regulation of the agency.

The department has submitted a report to the Legislative Fiscal Office and the Joint Legislative Committee on the budget demonstrating that the environmental and public health benefits outweigh the social and economic costs reasonably expected to result from the proposed rule. This report is published in the Potpourri Section of this issue of the *Louisiana Register*.

**Title 33  
ENVIRONMENTAL QUALITY  
Part I. Office of the Secretary  
Subpart 3. Laboratory Accreditation  
Chapter 45. Policy and Intent  
§4501. Description and Intent of Program**

A. These regulations provide requirements for an accreditation program specifically applicable to commercial laboratories and federal, state, and local government laboratories performing analyses reportable to the Louisiana Department of Environmental Quality (the department). The department laboratory accreditation program is designed to ensure the accuracy, precision, and reliability of the data generated, as well as the use of department-approved methodologies in the generation of that data. Laboratory data

generated by commercial environmental laboratories that are not accredited under these regulations will not be accepted by the department.

B. This accreditation covers the following fields of testing:

1. air emissions;
2. wastewater/surface water;
3. groundwater;
4. solid/hazardous wastes;
5. soils, sediments, and sludges;
6. biological materials;
7. radiologicals/radioassays; and
8. bioassays/biomonitoring/toxicological testing.

C. Each field of testing is divided into test categories. Applications for accreditation may be made for one or more test categories within specified fields of testing. To apply the laboratory must identify the specific department-approved methods it will be using for each test category and participate in all relevant department-approved proficiency testing programs. Any variance from approved protocol or procedure is acceptable only with prior written confirmation by the department.

D. Applicants must have an acceptable quality control system and associated documentation. Accreditation earned from other states or regulatory agencies may be accepted by the department, provided that a review shows that the requirements are no less stringent than those required by these regulations. Reciprocity with other state accreditation programs will be reviewed by the department, and if the requirements of these regulations are met, then accreditation may be granted.

E. This Subpart shall not apply to laboratory analyses programs accredited under the regulatory and statutory authority of the Louisiana Department of Health and Hospitals.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:

### §4503. Definitions

When used in these rules and regulations, the following words and phrases shall have the meanings ascribed to them below:

*Accreditation*—the formal recognition by the department of a laboratory's competence wherein specific tests or types of tests can be accurately and successfully performed in compliance with all minimum requirements set forth in these regulations.

*Annual Renewal Date*—July 1.

*Applicant*—the laboratory requesting accreditation.

*Commercial Laboratory*—any laboratory that performs analyses or tests for third parties for a fee or other compensation, except those commercial laboratories accredited by the Department of Health and Hospitals in accordance with R.S. 49:1001 et seq.

*Department*—the Louisiana Department of Environmental Quality.

*Department Accreditation Program*—a program instituted by the department by which a laboratory that generates data for submittal to any area of the department may be deemed an accredited laboratory producing acceptable data, based upon the accuracy and reliability of the generated data,

the use of department-approved methodology for the generation of the data, and the utilization of an acceptable quality control/quality assurance program to document the quality of the data produced.

*Department-Approved Testing Methods*—the laboratory and field procedures that have been approved by the department. These include all EPA-recognized methods, as well as those deemed equivalent by the department, that are adopted from existing standards and regulations or developed for specific fields of testing, specific testing technologies, or specific types of tests. This refers to the methods cited in the 40 CFR and subsequent changes published in the *Federal Register* from such sources as U.S. EPA, *Standard Methods for the Examination of Water and Wastewater*, ASTM, NIOSH, SW-846, *American Public Health Association for Microbiological Methods*, USGS, AOAC, and alternate test procedures approved for use.

*Discreditation*—the revocation by the department of the formal recognition of the laboratory's accredited status because of a violation of LAC 33:I.5705.F.

*EPA*—the United States Environmental Protection Agency.

*EPA-Accepted Methods*—the methods cited in the 40 CFR and subsequent changes published in the *Federal Register*; from such sources as EPA, *Standard Methods for the Examination of Water and Wastewater*, ASTM, NIOSH, SW846, *American Public Health Association for Microbiological Methods*, USGS, AOAC, and alternate test procedures approved for nationwide use, as well as any method approved by the department.

*Field of Testing*—air emissions; wastewater/surface water; groundwater; soils, sediments, and sludges; solid/ hazardous wastes; biological materials; radiologicals/ radioassays; and bioassays/biomonitoring/toxicological testing.

*Laboratory*—any facility, whether fixed-based, mobile, or field, that analyzes environmental samples and that seeks accreditation by the department.

*Laboratory Representative*—the laboratory employee who is designated as the contact person responsible for the information provided in the application and for ensuring compliance with the requirements for accreditation.

*Mobile Laboratory*—any facility that analyzes environmental samples and that seeks accreditation by the department that is capable of moving or being moved from one site to another.

*NIST*—National Institute of Standards and Technology.

*NRC*—Nuclear Regulatory Commission.

*Pending Accreditation*—a status that exists in the accreditation process wherein all application requirements have been met by the laboratory, but formal accreditation status has not been granted by the department.

*Proficiency Evaluation Test Sample (PE)*—a sample of known composition (unknown to laboratory) provided by an external source (e.g., EPA) that is used to evaluate lab performance.

*Reaccreditation*—the reinstatement of a fully accredited status by the department, thereby signifying that all violations of LAC 33:I.5705.F that initiated the discreditation action have

been corrected and that the laboratory is deemed in compliance with requirements of these regulations.

*Reciprocity*—a method of obtaining accreditation, whereby the applicant laboratory provides documentation that demonstrates that its current certification or accreditation is no less stringent than required by these regulations. All fees associated with accreditation in the state of Louisiana shall be applicable. Laboratories located within the state of Louisiana shall be required to apply for a certification and shall not be eligible for reciprocity.

*Small Laboratory*—a laboratory consisting of 10 or fewer people who influence the quality of data from sample collection through report generation.

*Suspension*—a temporary removal by the department of the accredited status, in part or whole, of a laboratory because of an infraction(s) of LAC 33:I.5705.F until such time that the infraction(s) is satisfactorily corrected and the laboratory is returned to a fully accredited status or the infraction(s) is not corrected and the laboratory is discredited.

*Test Category*—any one of the 10 categories listed in LAC 33:I.4705.B in which a laboratory may request department accreditation for a specific test or analysis.

*Variance*—any deviation from a department-approved method that has the potential for affecting the analytical results generated from a test procedure.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:

## **Chapter 47. Program Requirements**

### **§4701. Accreditation Process**

A. The department accreditation process comprises four basic steps:

1. the submittal to the department of a written request from the laboratory in the form of an application provided by the department, along with payment of all applicable fees;

2. an on-site assessment/evaluation of the laboratory submitting the request/application by authorized representatives of the department with the appropriate laboratory background;

3. the successful participation in department-approved applicable proficiency evaluations; and

4. both periodic technical evaluation of the laboratory and periodic submittal by the laboratory of written documentation that all requirements of the department accreditation program are being fulfilled in order to maintain accreditation.

B. When all requirements for accreditation have been successfully fulfilled, the department shall grant the applicant laboratory a formal notice of accreditation and a certificate of accreditation that lists those parameters for which the laboratory is accredited. The certificate of accreditation must be posted within public view in the laboratory setting.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:

### **§4703. Application for Accreditation**

A. An applicant for environmental laboratory accreditation must be legally identifiable and possess a permanent business

address and telephone number. The applicant laboratory must have the staff and resources in order to satisfactorily accomplish those analyses/tests for which accreditation is requested.

B. An application for environmental laboratory accreditation shall be made in writing to the department. This application will provide all requested information and be accompanied by the appropriate application fee. Information will include at least one round of the most recent department-specified proficiency evaluation test results or an analytical data package for test categories where no accessible proficiency tests exist. Supplemental information may be required.

C. Laboratories maintained on separate premises, even though operated under the same management, shall be required to maintain distinct accreditation. If a laboratory is located outside of the state of Louisiana, it shall be considered a separate and distinct laboratory and shall require individual accreditation. Separate accreditation is not required for buildings on the same or adjoining grounds. If a mobile laboratory is operating independently within the state, separate accreditation may be necessary.

D. Each laboratory must identify an official to represent it in all matters related to attaining and maintaining environmental laboratory accreditation. This official is the point of contact with the laboratory and is known as the laboratory representative. The laboratory representative may be any senior person from either the technical or managerial staff. The laboratory representative should be in a position of authority to ensure that the laboratory complies with the criteria and conditions for accreditation and should have the authority to bind the company in a legal manner.

E. In cases where all application requirements have been met, including review of all methodology and quality assurance program data, a special status of "pending accreditation" may be granted at the discretion of the department. Before a laboratory is granted full accreditation, all requirements of these regulations must be met.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:

### **§4705. Categories of Accreditation**

A. At the time of application each applicant must clearly identify both the fields of testing and the test categories for which accreditation is sought. A copy of the relevant test method documentation and the requisite equipment for the method must be available at the laboratory. A current list of approved methodologies for each parameter/analyte will be maintained by the department accreditation office, and a copy of the list will become a part of the application package. In cases where the methodology used by the laboratory is not listed, the laboratory shall submit documentation that will verify that the results obtained from the method in use are equal to or better than those results obtained from the approved methodology. The department will review the data submitted by the laboratory and will notify the laboratory in writing within 60 calendar days if the method is acceptable or unacceptable as an alternate method of analysis.

B. A laboratory may apply for accreditation in any one or more of the eight fields of testing (e.g., air emissions, wastewater/surface water, etc.) and in one or more of the 10 test categories applicable to the field(s) of testing selected. The laboratory shall be accredited in those parameters within the test category(ies) for which the laboratory demonstrates acceptable performance on proficiency samples (when available) and meets all other requirements of the department accreditation program. The accreditation test categories are as follows:

1. metals;
2. air pollutants (including industrial hygiene and Toxic Organic Compounds (T.O.) methods);
3. nutrients, minerals, ions, demands, classical wet chemistry, and total and fecal coliform;
4. microbiology (including fecal coliform and total coliform);
5. bioassay and biomonitoring;
6. organics (including volatiles, semi-volatiles, pesticides, herbicides, and PCBs);
7. dioxins and furans;
8. radiochemistry and radio assay;
9. asbestos; and
10. minor conventional parameters-BOD<sub>5</sub>, oil and grease, TSS, pH, fecal and total coliform, and residual chlorine.

C. An accredited laboratory may request the addition of field(s) of testing and test category(ies) to its scope of accreditation at any time. Such a request must be submitted in writing to the department. Unless the previous on-site inspection can verify the competence of the laboratory to perform the additional tests, another on-site inspection may be required.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:

**§4707. Fees**

A. Testing laboratories applying for accreditation or renewal of accreditation shall submit the appropriate fee calculated from the fee schedule along with the required application or update materials. Fees are nonrefundable. Fees are based on test categories and not the fields of testing.

B. In-house laboratories owned and/or operated by the state, local, or federal government are exempt from the fee requirements paid to the department, but shall make appropriate application for accreditation in accordance with other provisions of these regulations. Required proficiency samples shall be purchased by the laboratory and the required third-party audit shall be billed directly to the laboratory.

C. The annual fees shall not be prorated and shall apply in full to any portion of the fiscal year that remains prior to the annual renewal date (July 1).

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

Accreditation application fee payable every three years	\$500
Per major test category payable every year	\$250
Minor conventional category payable every year	\$200

Annual surveillance and evaluation applicable to minor conventional facilities and facilities applying for only one category of accreditation	\$250
Proficiency samples biannually	to be purchased by the laboratory
Bioassay/biomonitoring annually	to be purchased by the laboratory
Third-party audit	to be billed directly to the laboratory

E. Additional fees may be charged for the expansion of accreditation to include new test categories. Fees must be received prior to granting accreditation. Fee assessment will depend on the category(ies) of analyses and the need for a supplemental on-site inspection.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:

**§4709. Inspection of Laboratory**

A. As a condition of obtaining and maintaining accreditation, a laboratory shall permit and facilitate inspections by personnel or designated representatives of the department. The specific requirements of an on-site inspection are outlined in LAC 33:I.Chapter 51.

B. Inspectors shall conform to appropriate safety procedures during an on-site inspection. The authorized representatives of the department who perform the on-site evaluation must be experienced professionals and hold at least a bachelor's degree in a science-related field with technical experience in a laboratory. The representative(s) must successfully complete a laboratory certification course presented by the United States Environmental Protection Agency, the National Institute of Standards and Technology, or other department-approved training group.

C. Regular inspections of accredited laboratories shall be conducted at intervals of not more than two years. Such inspections shall be conducted by representatives of the department upon presentation of credentials. Prior to granting initial accreditation and after all documentation provided to the department has been reviewed, an announced on-site laboratory inspection shall be performed.

D. Inspections may include on-site proficiency test sample(s) analyses but shall not exceed 10 percent of the test category(ies). If there is a cost for these samples, the department will bill the laboratory, and the laboratory shall remit within 30 calendar days.

E. Laboratories that utilize mobile and/or field laboratories shall not be required to certify each laboratory individually. The mobile and/or field facilities shall be considered a part of the fixed-based laboratory and shall be required to participate in performance evaluation studies. Mobile and/or field laboratories shall not be exempt from any applicable requirements of an on-site evaluation as outlined in LAC 33:I.Chapter 51. Mobile and/or field laboratories may be inspected at the discretion of the department. In the event an organization is composed entirely of mobile and/or field laboratories and no fixed-based laboratory exists, the business

address of the organization shall be utilized as the location for accreditation purposes.

F. Fixed-base laboratories that have moved to a new location shall be inspected within 30 calendar days after the laboratory has notified the department, in writing, of such change in location as required in LAC 33:I.5707.

G. The department shall reserve the right to inspect or observe the testing procedure(s) of the laboratory if such action is deemed necessary by the department.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:

#### **§4711. Proficiency Testing Participation**

A. All accredited environmental laboratories or laboratories seeking accreditation must participate in department-approved proficiency testing programs relevant to their scope of accreditation, except when determined by the department that an appropriate proficiency test is not accessible or readily available. The department may provide appropriate commercial test samples at the applicant's expense whenever necessary.

B. If proficiency test samples are not available for particular test categories, the laboratory requesting accreditation will submit an "analytical data package." An "analytical data package" shall include all relevant analytical methodology, technical information, and quality assurance results concerning a particular type of analysis for which there is no current proficiency testing program.

C. Department-approved proficiency tests shall be used to provide suitable evidence of laboratory proficiency.

D. Proficiency testing studies will be available at a minimum of every six months. Laboratories may set up round robin testing programs under the department's supervision in order to satisfy this requirement, where appropriate.

E. Laboratories shall satisfactorily analyze at least one of the two proficiency test studies offered per year for each test category accredited. A year shall be considered as the 12-month period from the first day of July until the last day of June. Results shall be considered satisfactory when they are within the acceptable limits established by the testing agency or the department.

F. Each participating laboratory must supply the department with a copy of the proficiency evaluation (PE) test results within 30 days of receipt by the laboratory. Every laboratory that receives test results that are "unacceptable" for a specific analyte must investigate and identify likely causes for these results, resolve any problems, and report such activity to the department along with the submittal of test results.

G. In cases of on-site proficiency testing, the department shall inform the laboratory of the results of the evaluation. The department may require the laboratory to analyze additional proficiency samples if the results of such test are "unacceptable."

H. Results of proficiency testing during the preceding 12 months shall be made available by the laboratory, upon request, to any person utilizing or requesting the services of the laboratory.

I. Accredited laboratories that desire to extend the range of tests or analyses offered shall submit a written request with the appropriate fees, shall comply with the requirements of these regulations, and shall demonstrate satisfactory results in at least one round of proficiency testing samples prior to receiving accreditation.

J. Laboratories shall bear the cost of any subscription(s) to a proficiency testing program required by the department for compliance purposes.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:

#### **§4713. Interim Acceptance of Accreditation by Another Accrediting Authority for In-State Laboratories**

A. Acceptance of accreditation from another accrediting authority as equivalent accreditation shall be determined by the department.

B. All of the following requirements must be fulfilled:

1. a completed application form and support documents submitted;
2. any appropriate fee(s) paid;
3. evidence of successful participation in a proficiency testing program or its equivalent;
4. written documentation of accreditation sent to the department;
5. a comparison of certification requirements from the accredited laboratory; and
6. an on-site evaluation/inspection conducted by authorized representatives of the department or the previous inspection conducted by the accrediting authority.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:

#### **§4715. Accreditation for Laboratories not Located in Louisiana**

A. Out-of-state laboratories may receive accreditation via two mechanisms:

1. direct application to the department based on the requirements of this program; or
2. reciprocity based on evaluation of current accreditation maintained. Reciprocal accreditation is based on meeting the requirements set forth in LAC 33:I.4713.

B. A testing laboratory located outside of Louisiana may receive accreditation from the department or from another agency having environmental regulatory responsibility or delegated administrative authority, if approved by the department. The laboratory shall comply with all documentation and fee requests from the department.

C. If the out-of-state laboratory's accreditation is revoked, the Louisiana authorization is thereby automatically canceled. The environmental representative shall notify the state and all clients in Louisiana that utilize the laboratory of the revocation within 10 calendar days.

D. When accreditation of the laboratory has been reinstated, the department will request adequate documentation from the laboratory indicating that the laboratory is in compliance with these regulations. The

following requirements must be fulfilled before the department reinstates the laboratory as accredited:

1. a completed application form and support documents submitted;
2. fee(s) paid in accordance with LAC 33:I.4707;
3. evidence of successful participation in a proficiency testing program or its equivalent;
4. written documentation of accreditation sent to the department; and
5. an on-site evaluation/inspection conducted by authorized representatives of the department.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:

#### **§4717. Accreditation for Laboratories Participating in the NELAP Certification Program**

In-state laboratories participating in the National Environmental Laboratory Accreditation Program (NELAP) shall be certified under standards established by these regulations and those of the NELAP program as found at <http://134.67.104.12/html/nelac/standards.htm> or by writing NELAP, U.S. Environmental Protection Agency (MD-75A), Research Triangle Park, NC 27711, attention: NELAC Director, telephone (919) 541-1120. NELAP-certified laboratories shall be required to meet the requirements for reciprocity as set forth in LAC:33:I.4713.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:

#### **§4719. Implementation**

A. All commercial laboratories analyzing data as of the effective date of these regulations that are directly or indirectly submitting data to the department must submit an application for accreditation as required in LAC 33:I.4701.A.1, including the review fee, within 180 days of the effective date of these regulations. The department will not accept laboratory data generated by laboratories that do not comply with this deadline until such laboratories receive accreditation and fully comply with the requirements of this Section.

B. All laboratories subject to these regulations must receive accreditation from the department, as provided in these regulations, undergo an on-site inspection as specified in LAC 33:I.4701.A.2, and successfully participate in proficiency evaluations as required in LAC 33:I.4701.A.3 within one year of the effective date of these regulations. The department will not accept data generated by laboratories that do not comply with this deadline until such laboratories receive accreditation and fully comply with the requirements of this Section.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:

## **Chapter 49. Organization and Personnel Requirements**

### **§4901. Laboratory Staff for All Programs Covered by these Regulations**

A. **Managerial Staff.** The laboratory shall have the managerial staff with the authority and resources needed to discharge their duties. The laboratory shall be organized in such a way that confidence in its independence of judgment and integrity is maintained at all times. The laboratory shall specify and document the responsibility, authority, and interrelation of all personnel who manage, perform, or verify work affecting the quality of calibrations and tests. Such documentation shall include:

1. a clear description of the lines of responsibility in the laboratory;
2. personnel proportioned such that adequate supervision is ensured. An organizational chart is recommended; and
3. job descriptions for all positions.

#### **B. Laboratory Technical Director**

1. **Academic Training.** The laboratory technical director must have a bachelor's degree in science or a minimum of four year's equivalent experience in a related field.

2. **Experience.** The laboratory technical director must have a minimum of two year's experience in the area of environmental analysis.

#### **C. Quality Assurance Manager**

1. **Academic Training.** The quality assurance manager must have a minimum of a bachelor's degree in science or four year's equivalent experience in a related field.

2. **Experience.** The quality assurance manager must have a minimum of two year's environmental laboratory experience.

3. **Reporting Authority.** The quality assurance manager must have direct access to the highest level of management for decisions regarding laboratory quality assurance policy and resources. He or she must have independent authority regarding quality assurance oversight and implementation of the quality assurance program. This organizational position must not report through the technical management of the laboratory. The quality assurance manager must have the opportunity and freedom to evaluate data objectively without influence from technical or financial management.

4. **Technical Knowledge.** The quality assurance manager must have a general knowledge of all analytical methods that are performed by the laboratory.

5. **Small Laboratories.** In smaller laboratories (staff less than 10 total employees), the quality assurance manager's responsibilities may be performed by an upper level technical or operational manager of the facility. Academic and experience requirements apply.

#### **D. Supervisors**

1. **Academic Training.** Supervisors must have a minimum of a bachelor's degree or a minimum of four year's experience in a related field.

2. Experience. Supervisors must have a minimum of one year of experience in the area to be supervised, preferably with a minimum of six month's supervisory experience.

3. Radiochemistry. If the individual is supervisor of a radiochemistry laboratory, the individual must have a minimum of four year's experience in the field/area of radiochemistry; however, each year of additional college-level training in related fields may substitute for one year of experience, up to a maximum of two years.

#### E. Instrument Operators

1. Academic Training. Instrument operators must have a minimum of a high school diploma or equivalent and satisfactory completion of a short course or structured in-house equivalent on the operation of the instrument (by equipment manufacturer, professional organization, university, or other qualified training facility).

2. Experience. Instrument operators must have a minimum of six month's experience in the operation of the instrument with documentation that acceptable results are achieved by the operator (performance evaluation and quality control samples successfully analyzed).

3. On-the-Job Training. During on-the-job training to fulfill the requirement for experience, the data produced by the operator shall be deemed acceptable when validated and reviewed by a qualified instrument operator and/or laboratory supervisor.

#### F. Analyst

##### 1. Chemistry Procedures

a. Academic Training. An analyst must have a minimum of a high school diploma or equivalent, plus proper training in a methods training course or by a qualified analyst.

b. Experience. An analyst must have a minimum of six month's laboratory experience with the analysis procedure(s) with documentation that acceptable results are achieved by the analyst (performance evaluation and quality control samples successfully analyzed).

c. On-the-Job Training. During on-the-job training to fulfill the requirement for experience, data produced by the analyst shall be deemed acceptable when validated and reviewed by a qualified analyst and/or laboratory supervisor.

##### 2. Microbiological Procedures

a. Academic Training. An analyst must have a minimum of a bachelor's degree in science or four year's experience in a related field. He or she must have training in water analyses for total coliform and fecal coliform, a minimum of a high school diploma, or the equivalent, and satisfactory completion of a short course or structured in-house equivalent on the proper techniques of analysis.

b. Experience. An analyst must have a minimum of six month's experience in microbiological analysis and techniques.

##### 3. Radiological Procedures (Gross Alpha, Gross Beta, and Specific Radionuclides)

a. Academic Training. An analyst must have a minimum of a high school diploma or equivalent, plus specialized training in standards and sample preparation, instrument calibration, calculations, and data handling.

b. Experience. An analyst must have a minimum of six months of on-the-job training. An analyst may assist in routine

sample preparation and radioanalytical procedures provided that the work is supervised and validated by a qualified analyst and/or laboratory supervisor.

#### 4. Biomonitoring Procedures

a. Academic Training. An analyst must have a minimum of a high school diploma, or the equivalent, and documented training by a qualified analyst. EPA video training tapes should be utilized where available.

b. Experience. An analyst must have six months of on-the-job training with documentation of acceptable results from standard reference toxicant tests performed by the analyst.

c. On-the-Job Training. During on-the-job training to fulfill the requirements for experience, data produced by the analyst shall be deemed acceptable when validated and reviewed by a qualified analyst and/or laboratory supervisor.

G. Information on the relevant qualifications, training, and experience of the technical staff shall be maintained by the laboratory.

H. The laboratory shall provide additional training as needed in order to keep personnel current with new procedures, changes in existing procedures, and/or equipment changes or improvements.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:

### **Chapter 51. On-site Inspection/Evaluation**

#### **§5101. Inspection Procedures**

A. The authorized representative(s) of the department shall schedule the initial on-site inspection with the applicant laboratory. The authorized representative(s) of the department may make an announced or unannounced inspection or examination of an accredited laboratory whenever the department, in its discretion, considers such an inspection or examination necessary to determine the extent of the laboratory's compliance with the conditions of its accreditation and these regulations. Any refusal to allow entry to this representative shall constitute a violation of a condition of accreditation and is grounds for discreditation. The laboratory shall provide appropriate safety equipment for the department representative(s) when required.

B. Additional inspections may be conducted when evaluations and submissions from the laboratory or its clients indicate significant technical changes in the capability of the laboratory have occurred.

C. The following shall be available for review at the laboratory:

1. quality assurance plan;
2. approved methodology manual;
3. quality assurance data; and
4. proficiency test data.

D. During inspections, consideration will be given to:

1. competence of the staff;
2. working conditions, including adequacy of space;
3. lighting, equipment, and supplies;
4. efficient organization of the laboratory;
5. testing or analytical methods used;
6. quality control procedures;
7. maintenance of all required records; and

8. compliance with all the requirements of these regulations.

E. Laboratory inspection will follow this general outline:

1. an entry briefing with laboratory management;
2. review of quality documentation, sample handling, and records, such as typical lab results and reports of test data;
3. interviews with technical staff;
4. demonstration of selected tests, as necessary;
5. examination of equipment and calibration records;
6. an exit briefing including the specific identification of any deficiencies; and
7. a written report of inspection findings to be forwarded to the laboratory within 60 working days after the on-site visit.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:

### **§5103. Laboratory Facilities**

A. The laboratory conditions in which the tests are undertaken shall not invalidate the test results or adversely affect the required accuracy of measurement. The laboratory shall have the equipment and energy sources needed for proper testing. They shall be equipped with devices to monitor essential environmental conditions. Specifically, the testing laboratory shall include the following:

1. adequate work space, ventilation, light, and access to stable power sources at work stations;
2. exhaust hoods for proper elimination of volatile materials;
3. contamination-free work areas as necessary;
4. chemical and sample handling areas that will provide safe working areas and prevent cross contamination of samples;
5. adequate storage facilities for samples, extracts, reagents, solvents, reference materials, and standards to preserve their identity, concentration, purity, and stability;
6. adequate procedures and facilities in place for collection, storage, and disposal of wastes;
7. where relevant, adequate procedures and facilities for handling materials that may transmit infectious agents and radioactive materials;
8. appropriate storage for volatile, corrosive, or explosive chemicals and flammable solvents;
9. adequate separation of activities to ensure that no activity has an adverse effect on analyses;
10. separate culturing and testing facilities for biomonitoring laboratories; and
11. counting rooms that are physically separated from other activities in radiological laboratories.

B. Access to and use of all test areas shall be regulated in a manner appropriate to their designated purpose, and entry by persons external to the laboratory shall be controlled.

C. Adequate measures shall be taken to ensure cleanliness in the testing laboratory.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:

### **§5105. Test Methods and Procedures**

A. The testing laboratory shall have adequately documented instructions on the use and operation of all relevant equipment, on the handling and preparation of test items, where applicable, and on standard testing techniques, where the absence of such instructions could jeopardize the efficiency of the testing process. All instructions, standards, manuals, and reference data relevant to the work of the testing laboratory shall be maintained up-to-date and be readily available to the staff.

B. The testing laboratory shall use department-approved methodologies. These methodologies shall be available to the staff performing the tests.

1. Any variance from department-approved methodology is acceptable with prior written confirmation by the department. When an approved method or an appropriate modification is not available, the data may be accepted when submitted with the method validation package that must include, at a minimum, the requirements found in Subsection B.2 of this Section.

2. Where it is necessary to deviate from department-approved methods, a method validation package shall be submitted. This validation package must include, at a minimum, the following:

- a. origin of method;
- b. deviations from standard;
- c. reason for deviations;
- d. effects of deviations; and
- e. comparison with the department-approved methods

replaced, with documentation indicating results achieved from the modified method are equal to or better than the original method.

C. Any federal and/or state regulations applicable to the request for alternate methodology shall have priority over these regulations, and shall be utilized in the assessment of the request.

D. The testing laboratory shall have implemented the written standard operating procedures (SOPs), which shall be available to the staff and the inspector.

E. The testing laboratory shall have an acceptable and written quality assurance program plan that is implemented by the staff and readily available to the inspector.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:

### **§5107. Deficiencies Identified During On-Site Inspection**

A. Whenever deviations or deficiencies are found during an inspection, documentation of same will be included in the written report as required in LAC 33:I.5101.E.7. The laboratory representatives (or designees) will be asked to attest to (sign) receipt of the on-site inspection form and review same with the representative of the department conducting the inspection. The laboratory shall have a period of 30 calendar days from date of receipt of the laboratory inspection report in which to respond to the deficiencies reported and submit a plan for correcting all identified deficiencies. If the laboratory fails to respond, the accreditation process will terminate and the laboratory will be considered as nonaccredited.

B. The laboratory shall correct any deficiencies or deviations within six months from the date of receipt of the inspection report. If deficiencies affecting the accuracy of results are found, the accreditation shall be immediately suspended or revoked.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:

#### **§5109. Report of On-Site Inspection**

A. The department shall prepare for each accredited laboratory a listing of the test categories for which the laboratory has demonstrated proficiency during inspections. Inspection reports and listings shall be deemed public records. The department shall prepare a certificate of accreditation identifying the test categories for which the laboratory has been approved.

B. Whenever an accredited laboratory completes the requirements for increasing the scope of accredited analyses performed, another on-site inspection may be required, unless the previous annual on-site inspection verifies the competency of the laboratory to perform the additional tests.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:

#### **§5111. Laboratory Safety Program**

While specific safety criteria are not an aspect of laboratory accreditation, laboratory personnel should apply general and customary safety practices as part of good laboratory procedures. Each laboratory is strongly encouraged to have a written safety plan as part of their standard operating procedures. However, when safety practices are included in any approved method, those procedures become mandatory and must be strictly followed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:

### **Chapter 53. Quality System Requirements**

#### **§5301. Quality Assurance/Quality Control Requirements**

A. Each laboratory seeking accreditation shall:

1. have documented quality control procedures in use for each analytical procedure;
2. comply with all quality control procedures required by applicable federal, state, or public health agencies when performing analyses; and
3. have procedures to be followed for feedback and corrective action whenever testing discrepancies are detected or departures from documented policies and procedures occur.

B. The laboratory shall operate an internal quality assurance program appropriate to the type, range, and volume of work performed. A person/persons having responsibility for quality assurance within the laboratory shall be designated by the laboratory management and have direct access to top management.

C. The quality assurance program shall be documented in a quality assurance manual that is available for use by the laboratory staff. The quality assurance manual shall be

maintained by the quality assurance manager. The quality assurance manual shall contain information regarding:

1. the structure of the laboratory (organizational charts and generic position descriptions);
2. the operational and functional duties and services pertaining to quality assurance, so that each person concerned knows the extent and the limits of his/her responsibility;
3. general quality assurance procedures;
4. procedures for feedback and corrective action whenever testing discrepancies are detected;
5. chain of custody procedures;
6. a quality policy statement, including objectives and commitments, by management;
7. references to procedures for the control and maintenance of documentation, including document control of laboratory notebooks, instrument logbooks, standards logbooks, and records for data reduction, validation, storage, and reporting;
8. the laboratory's procedures for achieving traceability of measurements;
9. the laboratory's scope of tests;
10. references to procedures for handling submitted samples;
11. references to major equipment, as well as the facilities and services used by the laboratory;
12. references to procedures for calibration, verification, and maintenance of equipment;
13. references to verification practices including interlaboratory comparisons, proficiency testing programs, use of reference materials, and internal quality control schemes;
14. the laboratory management arrangements for departures from documented policies and procedures or from standard specifications;
15. references to procedures for dealing with complaints;
16. references to procedures for protecting confidentiality and proprietary rights;
17. references to procedures for audit and review; and
18. references to processes/procedures for establishing that personnel are adequately experienced in the duties they are expected to carry out and/or receive any needed training.

D. The quality assurance system shall be reviewed annually by management to ensure its continued effectiveness. Such reviews shall be documented with details of any changes.

E. Standard operating procedures (SOPs) shall be kept in a manual available to the analyst and the inspector. SOPs may be included as a part or section of the laboratory's quality assurance manual. The laboratory shall have clearly defined, written SOPs or an equivalent, addressing, at a minimum, and as appropriate:

1. methods of analysis;
2. sample collection, preservation, storage, handling, and chain of custody;
3. procurement and inventory procedures;
4. preventive maintenance;
5. recordkeeping and record storage (archives);
6. data reduction, validation, and reporting;
7. correcting erroneous reports;

8. management of laboratory wastes and hazardous materials; and

9. complaints registered against the laboratory's testing procedures, reporting procedures, and/or other general operating procedures.

F. Supervisory staff shall be responsible for quality assurance/quality control implementation and compliance.

G. The following general quality control principles shall apply, where applicable, to all testing laboratories. The manner in which they are implemented is dependent on the types of tests performed by the laboratory (e.g., chemical, microbiological, radiological). The standards for any given test type shall assure that the following applicable principles are addressed:

1. all laboratories shall have protocols in place to monitor the following quality controls:

a. adequate controls to monitor tests such as blanks, spikes, or reference toxicants;

b. adequate tests to define the variability and/or reproducibility of the laboratory results such as duplicates;

c. measures to ensure the accuracy of the test data, including sufficient calibration and/or continuing calibrations, use of certified reference materials, proficiency test samples, or other measures;

d. measures to evaluate test performance, such as method detection limits, or range of applicability such as linearity;

e. selection of appropriate formulae to reduce raw data to final results such as linear regression, internal standards, or statistical packages;

f. selection and use of reagents and standards of appropriate quality; and

g. measures to assure constant and consistent test conditions (both instrumental and environmental) where required by the method, such as temperature, humidity, light, or specific instrument conditions;

2. all quality control measures shall be assessed and evaluated on an ongoing basis, and quality control acceptance limits shall be used to determine the validity of the data. The acceptance/rejection criteria shall be updated at a frequency established by the method or by the department's standards;

3. the laboratory shall have procedures for the development of acceptance/rejection criteria where no method or regulatory criteria exists; and

4. the method-specified and/or method-recommended quality control protocols shall be followed. The essential standards shall be used if no protocols are written into the method or if the method protocols are less stringent.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:

### **§5303. Equipment and Supplies**

A. The laboratory shall be furnished with or have access to all items of equipment required for correct performance of the analytical procedures for which it is accredited.

B. All equipment shall be properly maintained. Maintenance shall be documented.

C. Defective equipment shall be removed from service and labeled until it has been repaired and shown to function satisfactorily.

D. Maintenance log book(s) shall be maintained for all major equipment. Each log shall include:

1. the name of the item of equipment;

2. the manufacturer's name, type identification, and serial number;

3. the date received and the date placed in service;

4. the condition of equipment when placed in service (new, used, or reconditioned);

5. the current location;

6. the location of manufacturer's instruction manual (if available); and

7. the details of maintenance.

E. In the case of measuring equipment, calibration records shall be maintained.

F. Records shall be maintained for acquisition of all equipment, reagents, and support services utilized by the laboratory in the generation of analytical data.

G. Supplies used for environmental testing shall meet the following minimums:

1. analytical reagents:

a. analytical reagent grade (AR) chemicals or equivalent are acceptable, unless individual procedures specify other reagent requirements;

b. stock and working standard solutions shall be checked regularly for signs of decomposition and expiration;

c. all solutions shall be labeled with identification of the compound, concentration, date prepared, analyst who prepared solution, and expiration date;

d. all purchased chemicals, solutions, and standards shall be labeled with dates of receipt, the dates of expiration on the container, and the date when the container is opened;

e. when reagents are removed from a container, they shall be used entirely or the unused portion discarded. Unused portions of a reagent may not be returned to the original container; and

f. compressed gases shall be of commercial grade, unless individual procedures specify other requirements.

2. glassware shall be cleaned and maintained properly as required by the test methodology; and

3. thermometers:

a. the laboratory shall have access to a NIST (National Institute of Standards and Technology) traceable thermometer where applicable;

b. the calibration of working thermometers, with the exception of dial thermometers, shall be checked at least annually against a NIST traceable certified thermometer and results recorded and documented per thermometer;

c. the calibration of dial-type thermometers shall be checked at least quarterly against a NIST traceable thermometer and results recorded per thermometer; and

d. thermometers shall be labeled when calibrated and the correction factor recorded.

H. Equipment used for environmental testing shall meet the following minimums:

1. analytical balances/pan balances:

a. records of balance calibration shall be kept for at least two ranges with Class S or S-1 reference weights (weights should be recertified every two years). Records showing daily (or before each use) functional/calibration checks for analytical balances and monthly functional/calibration checks for pan balances shall be maintained;

b. balances shall be calibrated and serviced at a minimum of once per year and service date recorded on the balance; and

c. balances may only be used with suitable support;

2. pH meters:

a. the laboratory shall use a pH meter with appropriate electrode with scale graduations at least 0.1 pH units (calibrated to  $\pm 0.1$  pH units for each use period) with temperature correction;

b. either a thermometer or a temperature sensor for automatic compensation shall be in use;

c. records shall be maintained indicating calibration daily or before each use, whichever is less frequent; and

d. aliquots of standard pH 4 and pH 7 or pH 7 and pH 10 shall be used only once;

3. conductivity meter:

a. a conductivity meter and probe of sufficient sensitivity shall be in use;

b. records shall be kept to show a daily or before each use calibration check, whichever is less frequent. Calibration shall be within the range of interest using standard solutions; and

c. records shall be kept showing that the cell constant is determined annually;

4. refrigeration equipment:

a. thermometer(s) in each refrigerator shall be immersed in liquid to the appropriate immersion line;

b. thermometers shall be graduated in increments no larger than 1°C;

c. temperatures for each refrigerator shall be recorded for each day in use for laboratory activities;

d. samples shall be stored in separate refrigerators from all standards where a potential for cross-contamination exists; and

e. refrigerator temperature should be maintained at  $4\text{EC} \pm 2\text{EC}$  and freezer temperature shall be less than 0EC;

5. visual comparison devices:

a. visual devices shall be calibrated according to manufacturer's specifications and/or test methodologies; and

b. results shall be recorded and maintained; and

6. Ovens/incubators/baths:

a. temperature shall be adequately controlled; and

b. records shall be kept to show that temperature is maintained (e.g., beginning and end of each use cycle or daily for extended drying periods).

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:

### §5305. Calibration

A. Measuring and testing equipment used by the testing laboratory shall be calibrated, where appropriate, before being

put into service and thereafter according to an established program.

B. The overall program of calibration of equipment shall be designed and operated so as to ensure that measurements made in the testing laboratory are traceable (where the concept is applicable) to national standards of measurement and, where available, to international standards of measurement specified by the International Committee of Weights and Measures. Where the concept of traceability to national or international standards of measurement is not applicable, the testing laboratory shall provide satisfactory evidence of correlation or accuracy of test results (e.g., by participation in a suitable program of interlaboratory comparisons).

C. The laboratory shall record all calibration data including frequency, conditions, and standards used for all analytical methodology.

D. The laboratory shall verify and document all standards versus primary (reference) standards.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:

### §5307. Test Methods and Procedures

A. The laboratory shall have procedures for making and controlling revisions to in-house SOPs, using revised SOPs only after written authorization from the designated laboratory authority.

B. Quality control procedures shall be documented and available to the staff as required in LAC 33:I.5301.C.

C. All manual calculation and data transfers shall be subject to appropriate checks.

1. When manual calculations are checked by a supervisor or another analyst, the results shall be initialed and dated on the work sheet by the individual who verified the results.

2. Where results are derived by electronic data processing techniques, the stability of the system shall be such that the accuracy of the results is not affected. This generally implies an ability to detect malfunctions in the hardware during program execution and take appropriate corrective action. Adherence to good automated laboratory practices (GALP) is recommended; however, at a minimum the laboratory must comply with the following:

a. computer software must be appropriate for the intended use;

b. procedures must be established and implemented for the protection of the integrity of data. Such procedures shall include:

i. integrity of data entry or capture;

ii. data storage;

iii. data transmission; and

iv. data processing;

c. computer and automated equipment must be provided with acceptable environmental operating conditions in order to maintain the operating integrity of the system; and

d. appropriate procedures must be implemented in order to maintain the security of data. These procedures must include prevention of unauthorized access to computer records

and prevention of unauthorized amendments or changes to computer records.

D. Whenever samples are subcontracted to another environmental testing laboratory, the original laboratory shall maintain a verifiable copy of results with a chain of custody. This procedure may not be used to circumvent proper accreditation or any state requirements. The original laboratory is responsible for ensuring that the secondary laboratory used is properly accredited for the scope of testing performed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:

### **§5309. Radiochemistry and Radionuclide Assay**

A. General Requirements. Radiochemistry and radionuclide assay laboratories shall be subject to the requirements set forth throughout these regulations and to those specific requirements established in this Section. These are minimum specifications, and more stringent criteria may be utilized.

#### B. Quality Control Practices

1. The laboratory shall continually evaluate its performance for each method and matrix that includes the determination of accuracy and precision.

2. Supervisory personnel shall conduct a documented review of the data calculations and quality control (QC) results.

3. Deviations or deficiencies shall be reported to management and documented. QC data shall be retrievable for all analyses.

4. Method detection limits shall be determined and documented. Confirmation of detection limits shall be done yearly or as required by the method.

#### C. Quality Assurance Checks

1. Radiochemistry and Radionuclide Assay. Ten percent of all analyses shall be QC, unless otherwise specified by the specific method. A minimum of three QC samples should be performed for each batch. The lab should repeat all samples if the QC check standard is outside the 95 percent confidence interval ( $\pm$  two standard deviations). Samples should be performed as follows:

a. QC samples should include one spike in 10 or one spike per batch if less than 10;

b. QC samples should include one blank in 10 or one blank per batch if less than 10;

c. QC samples should include one duplicate or spiked duplicate in 20 or one duplicate per batch if less than 20; and

d. spike samples should be representative of specified regulatory limits and/or they should approach the method-specific minimum detectable activities or lower limit of detections.

2. Radionuclide Assay Other than Radiochemistry. Twenty percent of all analyses shall be QC, unless otherwise specified by the method. A minimum of three QC samples should be performed for each batch. The lab should repeat all samples if the QC check standard is outside the 95 percent confidence interval  $\pm$  two standard deviations. Samples should be performed as follows:

a. QC samples should include one spike in 20 or one spike per batch if less than 20;

b. QC samples should include one blank in 20 or one blank per batch if less than 20;

c. QC samples should include one duplicate or spiked duplicate in 20 or one duplicate or spiked duplicate per batch if less than 20;

d. spike samples should be representative of specified regulatory limits and/or they should approach the method-specific minimum detectable activities or lower limit of detections; and

e. standard NIST traceable sources may be substituted for spike analysis.

#### D. General Equipment and Supplies

##### 1. Supplies

a. Distilled and/or deionized water shall be demonstrated to be free of interferants at applicable detection limits. This may be accomplished through the use of blanks.

b. Analytical reagents shall be demonstrated to be free of interferants at applicable detection limits. This may be accomplished through the use of blanks.

c. Reference sources should be traceable to NIST or an equivalent and shall be replaced after an appropriate period of time, not to exceed five half-lives of a single nuclide or, in the case of mixed nuclide standards, they should be replaced after they have been determined to be unusable. Unusable is determined by the inability to meet calibration criteria as set forth by the method or technical manual.

##### 2. Equipment—Auto Pipetors/Diluters

a. Apparatus having sufficient sensitivity for the application shall be used.

b. Records shall be kept showing delivery volumes are checked periodically.

c. Laboratory technicians shall periodically demonstrate the ability to properly use the equipment. This shall be documented.

E. Analytical Instrumentation. Maintenance log book(s) shall be maintained on all instrumentation or measuring devices. Each log shall include:

1. information as set forth in LAC 33:I.5303.D;

2. calibration frequency;

3. standards used for calibration;

4. calibration history;

5. the authorized calibration personnel or institute; and

6. records of all maintenance performed.

F. Environmental Testing Equipment. Equipment used for environmental testing shall meet the following minimums:

1. low background alpha/beta counting systems:

a. the systems shall be calibrated at least yearly;

b. the systems shall be calibrated in accordance with the appropriate methodologies or their appropriate technical manual;

c. attenuation curves shall be developed for appropriate alpha/beta energies that best represent the energies of the radionuclide of concern;

d. voltage plateaus shall be performed yearly, whenever counting gas has been changed, or if major maintenance is performed to the system. If the voltage plateau

changes by more than 50 volts, the calibration curves shall be performed;

e. daily backgrounds and reference source checks shall be performed when in use or weekly when not in use; and

f. sample log books shall be maintained for all samples that were counted/analyzed on the appropriate systems;

2. gamma spectroscopy systems:

a. the systems shall be calibrated at least yearly and shall include energy, peak width, and efficiency;

b. the systems shall be calibrated according to the appropriate methodologies or the manufacturer's technical manual;

c. daily reference source checks shall be performed when in use or weekly when not in use;

d. monthly background checks should be performed; and

e. sample log books shall be maintained for all samples that were counted/analyzed on the appropriate systems;

3. liquid scintillation systems:

a. the systems shall be calibrated at least yearly and shall include energy, peak width, and efficiency;

b. the systems shall be calibrated according to the appropriate methodologies or the manufacturer's technical manual;

c. daily backgrounds and reference source checks shall be performed when in use or weekly when not in use; and

d. sample log books shall be maintained for all samples that were counted/analyzed on the appropriate systems;

4. alpha spectroscopy systems:

a. the systems shall be calibrated at least yearly;

b. the systems shall be calibrated according to the appropriate methodologies or the manufacturer's technical manual;

c. daily reference source checks shall be performed when in use or weekly when not in use;

d. monthly background checks shall be performed; and

e. sample log books shall be maintained for all samples that were counted/analyzed on the appropriate systems; and

5. analytical instrumentation not mentioned above, such as counter scalers or ionizing radiation detection equipment:

a. the instrumentation shall be calibrated at least yearly or as mandated by a specific regulatory agency such as EPA, Nuclear Regulatory Commission (NRC), or state governments;

b. the instrumentation shall be calibrated according to the appropriate methodologies or to the manufacturer's technical manual;

c. daily backgrounds and reference source checks shall be performed when in use or weekly when not in use, if applicable; and

d. sample log books shall be maintained for all samples that were counted/analyzed on the appropriate systems.

G. Laboratory Environment

1. Radiochemistry and radionuclide assay counting rooms, wet chemistry rooms, and sample preparation and sample storage rooms shall be physically separated. Access and egress shall be controlled.

2. Radiochemistry and radionuclide assay counting rooms shall be adequately monitored for room temperature, humidity, pressure, and electrical supply characteristics on a daily basis when in use. These characteristics shall be maintained to ensure proper operation of the analytical equipment. Records shall be maintained.

3. Adequate measures shall be taken to ensure good housekeeping in the laboratory.

H. Waste Disposal. Radioactive waste disposal shall be thoroughly documented. The documentation shall include the following:

1. quantity disposed of;

2. where the radioactive material was disposed;

3. when it was disposed;

4. who disposed of the material; and

5. activity of disposed material, as applicable.

I. Records (Control Charts)

1. Control charts shall be updated at least monthly.

2. Copies of the control charts shall be available for technician review.

3. Control charts shall have at a minimum the following information:

a. all axes labeled;

b. instrument I.D. and/or serial number;

c. one and two sigma values as well as the normal expected values; and

d. applicable units as necessary.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:

**§5311. Quality Assurance for Biomonitoring Laboratories**

A. Quality assurance practices for toxicity testing laboratories must address all activities that affect the quality of the final effluent toxicity data, such as:

1. effluent sampling and handling;

2. the source and condition of the test organisms;

3. condition of equipment;

4. test conditions;

5. instrument calibration;

6. replication;

7. use of reference toxicants;

8. recordkeeping; and

9. data evaluation.

B. Facilities, Equipment, and Test Chambers

1. Separate test organism culturing and toxicity testing areas shall be provided to avoid loss of cultures to cross-contamination. Ventilation systems shall be designed to prevent recirculation of air from chemical analysis laboratories into organism culturing or testing areas and from sample preparation areas into culture rooms.

2. Laboratory and toxicity test temperature control equipment shall be adequate to maintain recommended test water temperatures.

3. Recommended materials shall be used for test equipment and test chambers.

#### C. Laboratory Water Used for Culturing and Test Dilution Water

1. The dilution water used in effluent toxicity tests will depend on the objectives of the study or requirements of discharge permits.

2. Water used for culturing organisms, dilutions, and internal quality assurance tests with food, organisms, and reference toxicants shall be analyzed for toxic metals and organics annually or whenever difficulty is encountered meeting minimum acceptability control requirement. The concentration of the metals Al, As, Cr, Co, Cu, Fe, Pb, Ni, and Zn, expressed as total metals, shall not exceed one ug/L each, and Cd, Hg, and Ag, expressed as total metals shall not exceed 100 ng/L. Total organochlorine pesticides plus PCBs shall be less than 50 ng/L. Pesticide levels shall not exceed EPA's ambient water quality chronic criteria values where available.

3. Water used for culturing and test dilutions shall be prepared using methods in the test manuals.

D. Sample holding times and temperatures of effluent samples must conform to conditions described in the test methods and/or the discharge permit.

#### E. Test Conditions

1. Water temperature shall be maintained within limits specified for each test.

2. Test chambers/rooms shall be adequately monitored by utilizing a seven-day continuous recording chart for temperature and light/dark cycle. Verification that the light/dark cycle is maintained shall be done at a minimum of twice monthly if a recording device is not utilized. Temperature recording charts shall be maintained in record form.

#### F. Test Organism Quality

1. If the laboratory does not maintain in-house cultures of test organisms and obtains organisms from an outside source, the sensitivity of each batch of test organisms shall be determined with the appropriate reference toxicant test performed concurrently with the effluent test, unless the organism supplier provides control chart data from, at a minimum, the last five monthly reference toxicity tests.

2. If the laboratory maintains in-house cultures, the sensitivity of the offspring shall be determined with the appropriate toxicity test performed with a reference toxicant at least once each month. If a given species of test organisms is used only monthly, or less frequently, in toxicity tests, a reference toxicant test shall be performed with each effluent and/or receiving water toxicity test.

3. If the laboratory maintains in-house cultures, records shall be maintained on organism health, mortality, water quality, and culture system maintenance.

4. Test organisms shall be positively identified to species.

#### G. Food Quality

1. Problems with nutritional suitability of food will be reflected in the survival, growth, and reproduction in cultures and toxicity tests. Artemia cysts and other foods shall be obtained and analyzed as described in the test manuals.

2. New batches of food used in culturing and testing should be analyzed for toxic organics and metals or whenever difficulty is encountered meeting minimum acceptability criteria for control survival and reproduction or growth. Foods exceeding the requirements in the test manuals should not be used.

#### H. Test Acceptability

1. A control shall be run with each toxicity test.

2. The minimum criteria stated in the appropriate test manuals and/or the discharge permit must be met for a test to be valid.

3. Individual tests may be conditionally acceptable if temperature, dissolved oxygen (DO), and other specified conditions fall outside specifications, depending on the degree of departure and objectives of the test. The acceptability will depend on the experience and professional judgment of the laboratory investigator and reviewing staff of the regulatory agency.

I. Analytical methods for analyses of culture and dilution water, food, and test solutions must include established quality assurance practices outlined in EPA manuals (USEPA 1979a and USEPA 1979b).

#### J. Calibration and Standardization

1. Instruments used for routine measurements of chemical and physical parameters such as pH, DO, temperature, and conductivity must be calibrated and standardized according to the instrument manufacturer's procedures as indicated in LAC 33:I.5301 on quality assurance. Calibration data is recorded in a permanent log book.

2. Wet chemical methods used to measure hardness, alkalinity, and total residual chlorine must be standardized prior to use each day according to the procedures for these specific EPA methods.

K. The minimum number of replicates stated in the test methods and/or permit shall be used for each toxicity test.

L. It is the laboratory's responsibility to demonstrate its ability to obtain consistent, precise results with reference toxicants before it performs toxicity tests with effluents for permit compliance purposes. To meet this requirement, the intralaboratory precision, expressed as percent coefficient of variation (CV percent), of each type of test used in the laboratory shall be determined by performing five or more tests with different batches of test organisms, using the same reference toxicant at the same concentrations, with the same test conditions and the same data analysis methods. A reference toxicant concentration series (0.5 or higher) shall be selected that will consistently provide partial mortalities at two or more concentrations.

#### M. Documenting Ongoing Laboratory Performance

1. Satisfactory laboratory performance shall be demonstrated by performing one acceptable test per month with a reference toxicant for each test method used in the laboratory. For a given test method, successive tests must be performed with the same reference toxicant, at the same concentrations, in the same dilution, and using the same data analysis methods.

2. A control chart should be prepared for each combination of reference toxicant, test species, test conditions,

and end points. Control limits are stated in test method manuals.

N. Reference toxicants such as sodium chloride (NaCl), potassium chloride (KCl), cadmium chloride (CdCl<sub>2</sub>), copper sulfate (CaSO<sub>4</sub>), sodium dodecyl sulfate (SDS), and potassium dichromate (K<sub>2</sub>Cr<sub>2</sub>O<sub>7</sub>) are suitable for use by the laboratory. Standard reference materials can be obtained from commercial supply houses or can be prepared in-house using reagent grade chemicals.

O. A complete file shall be maintained for each individual toxicity test or group of tests on closely related samples. Original data sheets shall be signed and dated by the personnel performing the tests. The file should contain:

1. a record of the chain of custody;
2. a copy of the sample log sheet;
3. the original bench sheets;
4. chemical analysis data on the sample(s);
5. detailed records of the test organisms used in the test, such as species, source, age, date of receipt, and other pertinent information relating to their history and health;
6. information on calibration of equipment and instruments; and
7. results of reference toxicant tests.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:

### §5313. Reports

A. The work carried out by the testing laboratory shall be covered by a report that accurately, clearly, and unambiguously presents the test results and all other relevant information. The report format should be specifically designed for the type of test/analysis reported, but standardized headings should be utilized whenever possible.

B. Each test report shall include at least the following information:

1. name and address of testing laboratory;
2. title of report, unique identification of report (such as log number), identification of each page of the report by number, and total number of pages in the report;
3. description and identification of the sample(s);
4. date of receipt of sample(s) and date(s) of performance of test, as appropriate;
5. identification of the test method;
6. any deviations, additions to, or exclusions from the test method and any other information relevant to a specific test;
7. disclosure of any nonstandard test method utilized;
8. measurements, examinations, and results, accompanied by appropriate quality assurance (QA) documents;
9. a statement on measurement uncertainty (where relevant);
10. a signature and title of person(s) accepting technical responsibility for the test report and date of issue;
11. if applicable, a statement that indicates that the results relate only to the items tested; and
12. if applicable, a statement that indicates that the report shall not be reproduced in full (or in part, if required) without the written approval of the customer.

C. Corrections or additions to a test report after issue shall be made only by a further document suitably marked (e.g., "Supplement to test report log number..." or as otherwise identified) and shall meet the relevant requirements of this Section.

D. In instances where the laboratory transmits a report via telephone, telex, facsimile (FAX), or any other means of electronic transmittal, the laboratory must have in place a written procedure that will provide protection and/or preservation of client confidentiality.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:

### §5315. Records

A. The testing laboratory shall retain on record all raw data and observations, calculations and derived data, calibration records, and the final test report for a minimum of five years or as required by regulatory or legal requirement.

B. All records and test reports shall be held securely and in confidence to the client, unless otherwise required by law.

C. The testing laboratory shall maintain a system that provides for retrievability of the chain of custody of the sample source, the analytical method, results (including calibration and instrument checks), the analyst performing the analysis, and the date. If laboratory records indicate that incorrect or questionable data has been generated by defective or improperly operated equipment, erroneous data entry, or other such anomalies, and a report has been issued, then the laboratory shall immediately notify the client. A written, corrected or amended report must be forwarded to the client.

D. Current reference documents (e.g., EPA manuals, CFRs, Standard Methods) shall be maintained and available to the staff.

E. Entries to all laboratory analytical records shall be made in a legible, permanent fashion and corrections made without obliterating original entries. All corrections shall be initialed and dated.

F. A permanent record of employees' signatures and initials shall be maintained.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:

### Chapter 55. Sample Protocol/Sample Integrity

#### §5501. Unacceptable Samples

When a sample is received by the testing laboratory and it is apparent or suspected that the sample protocol has not been followed, the laboratory should have a written procedure for handling of the questionable sample. The laboratory may choose to notify the customer and either request another sample or, if the customer insists upon analysis of the sample, reserve the right to include a disclaimer in the final report identifying the sample anomaly. This disclaimer must be permanently attached to the final report.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:

## **Chapter 57. Maintenance of Accreditation**

### **§5701. Display of Accreditation Certificate**

A. A current accreditation document shall be displayed at all times in a location visible to the public in each accredited laboratory. In cases of suspension or discreditation, the document shall be immediately removed.

B. The accreditation documents shall note the scope of accreditation (classes/parameters of approved testing) as well as the time frame for which the laboratory is accredited.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:

### **§5703. Renewal of Accreditation**

A. Accreditation shall be renewed annually, provided the testing laboratory has maintained compliance with these regulations, has reported acceptable proficiency test values for accredited classes, and has paid appropriate fees.

B. Failure to receive a renewal notice does not exempt laboratories from meeting the renewal date requirements.

C. Failure to pay the required renewal fees for 30 days shall automatically suspend accreditation of the laboratory until the fee is received by the department.

D. Failure to pay the required renewal fees for 90 days shall automatically result in discreditation of the laboratory. A laboratory whose accreditation has expired may reapply.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:

### **§5705. Discreditation and Suspension**

A. The department may suspend or discredit a laboratory in any or all test categories when the laboratory fails to fully meet all requirements of these regulations. Factors such as the gravity of the offense, the danger to the public of the offense, the intent of the violation, the extent of the violation, and the proposed correction of the problem will be considered to determine if suspension or discreditation is to be imposed. An emergency order immediately discrediting the laboratory may be issued if any conditions exist that present an eminent danger to public health and safety.

B. The department shall notify the laboratory by registered or certified letter of the suspension or discreditation and the reasons for the action.

C. Suspensions shall not be withdrawn until the basis for the suspension has been eliminated or rectified.

D. Appeals for laboratories that have received discreditation notices are governed by applicable statutes.

E. If the testing laboratory's accreditation is revoked by the department or another agency having primary enforcement responsibility or delegated administrative responsibility (e.g., out-of-state laboratories), the laboratory management shall notify, in writing, all clients that utilize the laboratory for analysis of samples and reporting of data to the department that the laboratory's accreditation has been revoked. Clients must be advised of the change in accreditation status within 10 calendar days from the official notice of the action.

F. The following shall be considered grounds for discreditation/suspension:

1. violation of a condition of the accreditation;

2. violation of a statute, regulation, or order of the department;

3. misrepresentations or falsifications made to the department, including any documents associated with accreditation applications;

4. demonstrable nonconformance with the requirements of these regulations, including failure to correct deficiencies;

5. nonpayment of applicable fees;

6. demonstrating incompetence or making consistent errors in analyses or erroneous reporting;

7. failure to report, in writing within 30 days, any changes in location, ownership, management and supervisory staff, authorized representative, major facilities of the laboratory, modification of technique, or any revisions to the accreditation application or required support documentation;

8. failure to employ approved testing methods in the performance of analyses;

9. failure to maintain facilities or equipment properly;

10. failure to report analytical test results as required or to maintain required records of test results;

11. failure to participate successfully in a required performance evaluation program;

12. violation or aiding and abetting in the violation of any provision of these regulations or the rules promulgated hereunder;

13. advertising false credentials;

14. failure to indicate clearly in the records when analyses were subcontracted to another laboratory;

15. performing and charging for additional tests or analyses that have not been requested by the customer, falsifying analyses, or engaging in other unethical or fraudulent practices; and

16. subcontracting performance evaluation samples to another laboratory and using the results to satisfy requirements for accreditation.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:

### **§5707. Changes in Laboratory Operation**

Changes in laboratory name, ownership, location, personnel, facilities, methodology, or any factors significantly affecting the performance of analyses for which the laboratory was originally accredited shall be reported to the department within 30 days.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:

### **§5709. Reaccreditation**

Reaccreditation shall require the submission of a new, revised application demonstrating and documenting corrective action implemented since loss of accreditation status.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:

A public hearing will be held on February 27, 1998, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested

persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (504) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by OS007. Such comments must be received no later than March 6, 1998, at 4:30 p.m., and should be sent to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70884 or FAX (504) 765-0486.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; or on the Internet at <http://www.deq.state.la.us/olae/irdd/olaeregs.htm>.

Herman Robinson  
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Laboratory Accreditation**

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

Implementation of the proposed rule by the department is estimated to cost the agency a total of \$571,402 over the first three years. Most, if not all, local government-owned laboratories will not be affected as they are not commercial laboratories. Local government-owned facilities that utilize commercial environmental laboratories may see some increased cost through higher prices from the commercial laboratories.

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

It is estimated that the Department of Environmental Quality will collect \$555,000 in fees from the regulated laboratories over the first three full years of the program. No other revenue collections are expected to be affected.

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

Commercial environmental laboratories, which are to be regulated by this rule, are estimated to incur \$11,148,700 in additional costs due to the implementation of this proposed rule over the first three full years of the program. This number includes the estimated \$555,000 in fees that will be collected from the regulated laboratories in the first three years.

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

As this rule will apply minimum standards to all commercial environmental laboratories in the state, it is expected to promote fairer competition between commercial environmental laboratories. It is not expected to significantly impact employment in the state.

J. Dale Givens  
Secretary  
9801#076

Richard W. England  
Assistant to the  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Department of Environmental Quality  
Office of Waste Services**

**RCRA Updates**

(LAC 33:V.Chapters 1, 3, 5, 7, 9, 11, 13, 15, 22, 25, 31, 33, 38, 41, 43, and 49)(HW061\*)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Hazardous Waste Division regulations, LAC 33:V.Chapters 1, 3, 5, 7, 9, 11, 13, 15, 22, 25, 31, 33, 38, 41, 43, and 49 (HW061\*).

This proposed rule is identical to a federal law or regulation, 60 FR 35703-35706, 50426-50430, 55202-55206, 63417-63434; 61 FR 4903-4916, 13103-13106, 15566-15660, 15660-15668, 16290-16316, 19117, 33680-33690, 33691, 36419-36421, 43924-43931; 62 FR 7502-7600, which is applicable in Louisiana. For more information regarding the federal requirement, contact the Investigations and Regulation Development Division at the address or phone number given below. No fiscal or economic impact will result from the proposed rule. Therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4). This proposed rule meets the exceptions listed in R.S. 30:2019(D)(3) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

This proposed rule includes the addition of tests to demonstrate that a sorbent is nonbiodegradable. It will improve the process for permitting facilities that store, treat, or dispose of hazardous waste by providing opportunities for public involvement earlier in the process and by expanding public access to information throughout the permitting process and the operational lives of facilities, requiring prospective applicants to hold an informal public meeting before submitting an application for a RCRA permit and to advertise this meeting in the newspaper, through broadcast media, and on a sign posted at or near the property. A permitting agency may mail a notice to interested persons when the facility submits its application and, as the agency deems necessary, may require a facility owner or operator to set up an information repository that will hold all information and documents the permitting agency has decided is necessary, and may require combustion facilities (i.e., incinerators and other facilities that burn hazardous wastes) to notify the public before they hold a trial burn. An error in the text pertaining to regulatory exclusion from the definition of solid waste for recovered oil that is inserted into the petroleum refining process is corrected. The rule adds procedural controls governing the export and import of wastes when shipped for recovery among Organization for Economic Cooperation and Development (OECD) countries. The basis and rationale for this rule are to make the state regulations equivalent with federal regulations.

**Title 33**

**ENVIRONMENTAL QUALITY**

**Part V. Hazardous Waste and Hazardous Materials**

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

**Chapter 1. General Provisions and Definitions**

**§105. Program Scope**

These rules and regulations apply to owners and operators of all facilities that generate, transport, treat, store, or dispose of hazardous waste, except as specifically provided otherwise herein. The procedures of these regulations also apply to denial of a permit for the active life of a hazardous waste management facility or TSD unit under LAC 33:V.706. Definitions appropriate to these rules and regulations, including "solid waste" and "hazardous waste," appear in LAC 33:V.109. Those wastes which are excluded from regulation are found in this Section.

\* \* \*

[See Prior Text in A-D.44.f]

g. recovered oil from petroleum refining, exploration and production, and from transportation incident thereto, which is to be inserted into the petroleum refining process (SIC Code 2911) at or before a point (other than direct insertion into a coker) where contaminants are removed. This exclusion applies to recovered oil stored or transported prior to insertion, except that the oil must not be stored in a manner involving placement on the land, and must not be accumulated speculatively, before being so recycled. Recovered oil is oil that has been reclaimed from secondary materials (such as wastewater) generated from normal petroleum refining, exploration and production, and transportation practices. Recovered oil includes oil that is recovered from refinery wastewater collection and treatment systems, oil recovered from oil and gas drilling operations, and oil recovered from wastes removed from crude oil storage tanks. Recovered oil does not include (among other things) oil-bearing hazardous wastes listed in LAC 33:V.4901 (e.g., K048-K052, F037, F038). However, oil recovered from such wastes may be considered recovered oil. Recovered oil also does not include used oil as defined in LAC 33:V.4001.

\* \* \*

[See Prior Text in D.44-M.10]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790 (November 1988), LR 15:181 (March 1989), LR 16:47 (January 1990), LR 16:217 (March 1990), LR 16:220 (March 1990), LR 16:398 (May 1990), LR 16:614 (July 1990), LR 17:362 (April 1991), LR 17:368 (April 1991), LR 17:478 (May 1991), LR 17:883 (September 1991), LR 18:723 (July 1992), LR 18:1256 (November 1992), LR 18:1375 (December 1992), amended by the Office of the Secretary, LR 19:1022 (August 1993), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:813 (September 1996), LR 22:831 (September 1996), amended by the Office of the Secretary, LR 23:298 (March 1997), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:564 (May

1997), LR 23:567 (May 1997), LR 23:721 (June 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:952 (August 1997), LR 23:1511 (November 1997), LR 24:

**§109. Definitions**

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

\* \* \*

[See Prior Text]

*Competent Authorities*—the regulatory authorities of concerned countries having jurisdiction over transfrontier movements of wastes destined for recovery operations.

\* \* \*

[See Prior Text]

*Concerned Countries*—the exporting and importing Organization for Economic Cooperation and Development (OECD) member countries and any OECD member countries of transit.

\* \* \*

[See Prior Text]

*Consignee*—(as used in LAC 33:V.1131) the person to whom possession or other form of legal control of the waste is assigned at the time the waste is received in the importing country.

*Consignee*—(as used in LAC 33:V.Chapter 11, except §1131) the ultimate treatment, storage, or disposal facility in a receiving country to which the hazardous waste will be sent.

\* \* \*

[See Prior Text]

*Country of Transit*—any designated OECD country in LAC 33:V.1113.I.1.a and b other than the exporting or importing country across which a transfrontier movement of wastes is planned or takes place.

\* \* \*

[See Prior Text]

*Exporting Country*—any designated OECD member country in LAC 33:V.1113.I.1.a from which a transfrontier movement of wastes is planned or has commenced.

\* \* \*

[See Prior Text]

*Importing Country*—any designated OECD country in LAC 33:V.1113.I.1.a to which a transfrontier movement of wastes is planned or takes place for the purpose of submitting the wastes to recovery operations therein.

\* \* \*

[See Prior Text]

*Notifier*—the person under the jurisdiction of the exporting country who has, or will have at the time the planned transfrontier movement commences, possession or other forms of legal control of the wastes and who proposes their transfrontier movement for the ultimate purpose of submitting them to recovery operations. When the United States is the exporting country, notifier is interpreted to mean a person domiciled in the United States.

\* \* \*

[See Prior Text]

*Organization for Economic Cooperation and Development (OECD) Area*—all land or marine areas under the national jurisdiction of any designated OECD member country in LAC 33:V.1113.I. When the regulations refer to shipments to or from an OECD country, this means OECD area.

\* \* \*

[See Prior Text]

**Recognized Trader**—a person who, with appropriate authorization of concerned countries, acts in the role of principal to purchase and subsequently sell wastes; this person has legal control of such wastes from time of purchase to time of sale; such a person may act to arrange and facilitate transfrontier movements of wastes destined for recovery operations.

**Recovery Facility**—an entity which, under applicable domestic law, is operating or is authorized to operate in the importing country to receive wastes and to perform recovery operations on them.

**Recovery Operations**—activities leading to resource recovery, recycling, reclamation, direct reuse or alternative uses as listed in Table 2.B of the Annex of OECD Council Decision C(88)90(Final) of 27 May 1988, (available from the Environmental Protection Agency, RCRA Information Center (RIC), 1235 Jefferson-Davis Highway, First Floor, Arlington, VA 22203 (Docket Number F-94-IEHF-FFFFF) and the Organization for Economic Cooperation and Development, Environment Directorate, 2 rue Andre Pascal, 75775 Paris Cedex 16, France), which include the following operations:

Code	Recovery Operations
R1	Use as a fuel (other than in direct incineration) or other means to generate energy
R2	Solvent reclamation/regeneration
R3	Recycling/reclamation of organic substances that are not used as solvents
R4	Recycling/reclamation of metals and metal compounds
R5	Recycling/reclamation of other inorganic materials
R6	Regeneration of acids or bases
R7	Recovery of components used for pollution control
R8	Recovery of components from catalysts
R9	Used oil re-refining or other reuses of previously used oil
R10	Land treatment resulting in benefit to agriculture or ecological improvement
R11	Uses of residual materials obtained from any of the operations numbered R1-R10
R12	Exchange of wastes for submission to any of the operations numbered R1-R11
R13	Accumulation of material intended for any operation in Table 2.B of the Annex of OECD Council Decision

\* \* \*

[See Prior Text]

**Transfrontier Movement**—any shipment of wastes destined for recovery operations from an area under the national jurisdiction of one OECD member country to an area under the national jurisdiction of another OECD member country.

\* \* \*

[See Prior Text]

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2180 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790 (November 1988), LR 15:378 (May 1989), LR 15:737 (September 1989), LR 16:47 (January 1990), LR 16:218 (March 1990), LR 16:220 (March 1990), LR 16:399 (May 1990), LR 16:614 (July 1990), LR 16:683 (August 1990), LR 17:362 (April 1991), LR 17:478 (May 1991), LR 18:723 (July 1992), LR 18:1375 (December 1992), repromulgated LR 19:626 (May 1993), amended LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:814 (September 1996), LR 23:564 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

**§110. References**

\* \* \*

[See Prior Text in A-A.15]

0010	Modified Method 5 Sampling Train
* * *	
[See Prior Text]	
9320	Radium-228

\*When Method 9066 is used it must be preceded by the manual distillation specified in procedure 7.1 of Method 9065. Just prior to distillation in Method 9065, adjust the sulfuric acid-preserved sample to pH 4 with 1 + 9 NaOH. After the manual distillation is completed, the autoanalyzer manifold is simplified by connecting the re-sample line directly to the sampler.

16. The OECD Green List of Wastes (revised May 1994), the Amber List of Wastes and Red List of Wastes (both revised May 1993) as set forth in Appendix 3, Appendix 4, and Appendix 5, respectively, to the OECD Council Decision C(92)39/FINAL (Concerning the Control of Transfrontier Movements of Wastes Destined for Recovery Operations). These incorporations by reference were approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 on July 11, 1996. These materials are incorporated as they exist on the date of the approval and a notice of any change in these materials will be published in the *Federal Register*. The materials are available for inspection at: the Office of the Federal Register, 800 North Capitol Street, NW, Suite 700, Washington, D.C.; the U.S. Environmental Protection Agency, RCRA Information Center (RIC), 1235 Jefferson-Davis Highway, First Floor, Arlington, VA 22203 (Docket Number F-94-IEHF-FFFFF); and may be obtained from the Organization for Economic Cooperation and Development, Environment Directorate, 2 Rue Andre Pascal, 75775 Paris Cedex 16, France.

\* \* \*

[See Prior Text in B]

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2180 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 22:814 (September 1996), amended

by the Office of Waste Services, Hazardous Waste Division, LR 24:

### **Chapter 3. General Conditions for Treatment, Storage, and Disposal Facility Permits**

#### **§309. Conditions Applicable to All Permits**

Each permit shall include permit conditions necessary to achieve compliance with the Act and these regulations, including each of the applicable requirements specified in LAC 33:V.Subpart 1. In satisfying this provision, the administrative authority may incorporate applicable requirements of LAC 33:V.Subpart 1 directly into the permit or establish other permit conditions that are based on LAC 33:V.Subpart 1. The following conditions apply to all hazardous waste permits. All conditions applicable to permits shall be incorporated into the permits either expressly or by reference. If incorporated by reference, a specific citation to these regulations must be given in the permit.

\* \* \*

[See Prior Text in A-L.12]

M. Information Repository. The administrative authority may require the permittee to establish and maintain an information repository at any time, based on the factors set forth in LAC 33:V.708.C.2. The information repository will be governed by the provisions in LAC 33:V.708.C.3-6.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 16:220 (March 1990), LR 16:614 (July 1990), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 21:944 (September 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

### **Chapter 5. Permit Application Contents**

#### **Subchapter D. Part II General Permit Information Requirements**

##### **§517. Part II Information Requirements (the Formal Permit Application)**

The formal permit application information requirements presented in this Section reflect the standards promulgated in LAC 33:V.Subpart 1. These information requirements are necessary in order to determine compliance with all standards. Responses and exhibits shall be numbered sequentially according to the technical standards. The permit application must describe how the facility will comply with each of the sections of LAC 33:V.Chapters 15-37 and 41. Information required in the formal permit application shall be submitted to the administrative authority and signed in accordance with requirements in LAC 33:V.509. The description must include appropriate design information (calculations, drawings, specifications, data, etc.) and administrative details (plans, flow charts, decision trees, manpower projections, operating instructions, etc.) to permit the administrative authority to determine the adequacy of the hazardous waste permit application. Certain technical data, such as design drawings, specifications, and engineering studies, shall be certified by a registered professional engineer. If a section does not apply, the permit application must state it does not apply and why it does not apply. This information is to be submitted using the

same numbering system and in the same order used in these regulations:

\* \* \*

[See Prior Text in A-U]

V. for land disposal facilities, if a case-by-case extension has been approved under LAC 33:V.2239 or a petition has been approved under LAC 33:V.2241 or 2242, a copy of the notice of approval for the extension or petition is required; and

W. a summary of the preapplication meeting, along with a list of attendees and their addresses, and copies of any written comments or materials submitted at the meeting, as required under LAC 33:V.708.A.3.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:280 (April 1984), LR 13:433 (August 1987), LR 14:790 (November 1988), LR 15:181 (March 1989), LR 15:378 (May 1989), LR 16:220 (March 1990), LR 16:399 (May 1990), LR 16:614 (July 1990), LR 16:683 (August 1990), LR 17:658 (July 1991), LR 18:1256 (November 1992), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

### **Subchapter F. Special Forms of Permits**

#### **§537. Permits for Boiler and Industrial Furnaces**

##### **Burning Hazardous Waste for Recycling Purposes Only (boilers and industrial furnaces burning hazardous waste for destruction are subject to permit requirements for incinerators)**

\* \* \*

[See Prior Text in A-B.2.f]

g. The administrative authority must send a notice to all persons on the facility mailing list, as set forth in LAC 33:V.717.A.5, and to the appropriate units of state and local government, as set forth in LAC 33:V.717.A.2, announcing the scheduled commencement and completion dates for the trial burn. The applicant may not commence the trial burn until after the administrative authority has issued such notice.

i. This notice must be mailed within a reasonable time period before the trial burn. An additional notice is not required if the trial burn is delayed due to circumstances beyond the control of the facility or the permitting agency.

ii. This notice must contain:

(a). the name and telephone number of the applicant's contact person;

(b). the name and telephone number of the permitting agency's contact office;

(c). the location where the approved trial burn plan and any supporting documents can be reviewed and copied; and

(d). an expected time period for commencement and completion of the trial burn.

h. During each approved trial burn (or as soon after the burn as is practicable), the applicant must make the following determinations and analyses:

i. a quantitative analysis of antimony, arsenic, barium, beryllium, cadmium, chromium, lead, mercury, thallium, silver, and chlorine/chloride in the feedstreams

(hazardous waste, other fuels, and industrial furnace feedstocks) to the boiler or industrial furnace is required;

ii. a quantitative analysis of the stack gas for the concentration and mass emissions of the trial POHCs is required;

iii. if dioxin and furan testing is required under LAC 33:V.3009.E, a quantitative analysis of the stack gas for the concentration and mass emission rate of the 2,3,7,8-chlorinated tetra-octa congeners of chlorinated dibenzo-p-dioxins and furans, and a computation showing conformance with the emission standard are required;

iv. a quantitative analysis of the stack gas for the concentration and mass emission of particulate matter, metal(s) or hydrogen chloride (HCl) and chlorine gas (Cl<sub>2</sub>) and a computation showing conformance with the metals or HCl emission performance standard in LAC 33:V.3011 and 3015 are required;

v. a quantitative analysis of the scrubber water (if any), ash residues, and other residues is required for the purpose of estimating the fate of the trial POHCs, the fate of any metal, and the fate of chlorine/chloride subject to emissions testing under LAC 33:V.537.B.2.g.iii.(b);

vi. destruction and removal efficiency (DRE) must be computed in accordance with the DRE formula specified in LAC 33:V.3009.A;

vii. sources of fugitive emissions and their means of control must be identified;

viii. carbon monoxide, total hydrocarbons, and oxygen in the stack gas must be continuously measured. The administrative authority may approve an alternative scheme for monitoring total hydrocarbons;

ix. a quantitative analysis of the exhaust gas for the concentration and mass emission of particulate matter, and a computation showing conformance with the particulate matter standard in LAC 33:V.3011 is required; and

x. any other information will be required that the administrative authority specifies as necessary to ensure that the trial burn will reveal whether the facility complies with the performance standards required by LAC 33:V.3009-3015.

i. The applicant must submit to the administrative authority a certification that the trial burn has been conducted in accordance with the approved trial burn plan and must submit the results of all the analyses and determinations required in Subsection B.2.h of this Section. This submission shall be made within 90 days of completion of the trial burn, or later if approved by the administrative authority.

j. All data collected during any trial burn must be submitted to the administrative authority after completion of the trial burn.

k. All submissions required by this Paragraph must be certified on behalf of the applicant by the signature of a person authorized to sign a permit application or a report under LAC 33:V.507 and 509.

l. Based on the results of the trial burn, the administrative authority shall specify the operating requirements in the final permit according to LAC 33:V.3005.E. The permit modification shall proceed as a minor modification according to LAC 33:V.323.

\*\*\*

[See Prior Text in B.3-4]

### C. Interim Status Boilers and Industrial Furnaces

1. For the purpose of determining feasibility of compliance with the performance standards of LAC 33:V.3009-3015 of this Chapter and of determining adequate operating conditions under LAC 33:V.3007, applicants owning or operating existing boilers or industrial furnaces operated under the interim status standards of LAC 33:V.3007 must either prepare and submit a trial burn plan and perform a trial burn in accordance with the requirements of this Section or submit other information as specified in LAC 33:V.535.A.6. The administrative authority must announce his or her intention to approve of the trial burn plan in accordance with the timing and distribution requirements of Subsection B.2.g of this Section. The contents of the notice must include:

a. the name and telephone number of a contact person at the facility;

b. the name and telephone number of a contact office at the permitting agency;

c. the location where the trial burn plan and any supporting documents can be reviewed and copied; and

d. a schedule of the activities that are required prior to permit issuance, including the anticipated time schedule for agency approval of the plan and the time periods during which the trial burn would be conducted.

2. Applicants who submit a trial burn plan and receive approval before submission of part II of the permit application must complete the trial burn and submit the results specified in LAC 33:V.537.B.2.h with part II of the permit application. If completion of this process conflicts with the date set for submission of part II, the applicant must contact the administrative authority to establish a later date for submission of part II or the trial burn results. If the applicant submits a trial burn plan with part II of the permit application, the trial burn must be conducted and the results submitted within a time period prior to permit issuance to be specified by the administrative authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:737 (September 1989), amended LR 18:1375 (December 1992), LR 21:266 (March 1995), LR 22:818 (September 1996), LR 22:832 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

## Chapter 7. Administrative Procedures for Treatment, Storage, and Disposal Facility Permits

### Subchapter A. Permits

#### §701. Emergency Permits

Notwithstanding any other provision, in the event the administrative authority finds an imminent and substantial endangerment to human health or the environment, he may issue a temporary emergency permit (1) to a nonpermitted facility to allow treatment, storage, or disposal of hazardous waste or (2) to a permitted facility to allow treatment, storage, or disposal of a hazardous waste not covered by an effective permit. This emergency permit:

\*\*\*

[See Prior Text in A-D]

E. shall be accompanied by a public notice published under LAC 33:V.715 including:

\* \* \*

[See Prior Text in E.1-F]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 18:1256 (November 1992), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

## **Subchapter B. Hearings**

### **§708. Preapplication Public Meeting and Notice, Public Notice Requirements at the Application Stage, and Information Repository**

#### **A. Preapplication Public Meeting and Notice**

1. **Applicability.** The requirements of this Section shall apply to all RCRA part II applications seeking initial permits for hazardous waste management units over which the department has permit issuance authority. The requirements of this Section shall also apply to RCRA part II applications seeking renewal of permits for such units where the renewal application is proposing a significant change in facility operations. For the purposes of this Section a "significant change" is any change that would qualify as a class 3 permit modification under LAC 33:V.321.C. The requirements of this Section do not apply to permit modifications under LAC 33:V.321.C or to applications that are submitted for the sole purpose of conducting post-closure activities or post-closure activities and corrective action at a facility.

2. Prior to the submission of a part II RCRA permit application for a facility, the applicant must hold at least one meeting with the public in order to solicit questions from the community and inform the community of proposed hazardous waste management activities. The applicant shall post a sign-in sheet or otherwise provide a voluntary opportunity for attendees to provide their names and addresses.

3. The applicant shall submit a summary of the meeting, along with the list of attendees and their addresses developed under Subsection A.2 of this Section, and copies of any written comments or materials submitted at the meeting to the permitting agency as a part of the part II application, in accordance with LAC 33:V.517.

4. The applicant must provide public notice of the preapplication meeting at least 30 days prior to the meeting. The applicant must maintain, and provide to the permitting agency upon request, documentation of the notice.

a. The applicant shall provide public notice in all of the following forms:

i. a newspaper advertisement. The applicant shall publish a notice, fulfilling the requirements in Subsection A.4.b of this Section, in a newspaper of general circulation in the parish or equivalent jurisdiction that hosts the proposed location of the facility. In addition, the administrative authority shall instruct the applicant to publish the notice in newspapers of general circulation in adjacent parishes or equivalent jurisdictions where the administrative authority determines that such publication is necessary to inform the affected public. The notice must be published as a display advertisement;

ii. a visible and accessible sign. The applicant shall post a notice on a clearly marked sign at or near the facility, fulfilling the requirements in Subsection A.4.b of this Section. If the applicant places the sign on the facility property, then the sign must be large enough to be readable from the nearest point where the public would pass by the site;

iii. a broadcast media announcement. The applicant shall broadcast a notice, fulfilling the requirements in Subsection A.4.b of this Section, at least once, on at least one local radio station or television station. The applicant may employ another medium with prior approval of the administrative authority;

iv. a notice to the department. The applicant shall send a copy of the newspaper notice to the department and to the appropriate units of state and local government, in accordance with LAC 33:V.717.A.2.

b. The notices required under Subsection A.4.a of this Section must include:

i. the date, time, and location of the meeting;

ii. a brief description of the purpose of the meeting;

iii. a brief description of the facility and proposed operations, including the address or a map (e.g., a sketched or copied street map) of the facility location;

iv. a statement encouraging people to contact the facility at least 72 hours before the meeting if they need special access to participate in the meeting; and

v. the name, address, and telephone number of a contact person for the applicant.

#### **B. Public Notice Requirements at the Application Stage**

1. **Applicability.** The requirements of this Section shall apply to all RCRA part II applications seeking initial permits for hazardous waste management units over which the department has permit issuance authority. The requirements of this Section shall also apply to RCRA part II applications seeking renewal of permits for such units under LAC 33:V.315.A. The requirements of this Section do not apply to permit modifications under LAC 33:V.321.C or permit applications submitted for the sole purpose of conducting post-closure activities or post-closure activities and corrective action at a facility.

#### **2. Notification at Application Submittal**

a. The administrative authority shall provide public notice, as set forth in LAC 33:V.717.A.5, and notice to appropriate units of state and local government, as set forth in LAC 33:V.717.A.2, that a part II permit application has been submitted to the department and is available for review.

b. The notice shall be published within a reasonable period of time after the application is received by the administrative authority. The notice must include:

i. the name and telephone number of the applicant's contact person;

ii. the name and telephone number of the permitting agency's contact office and a mailing address to which information, opinions, and inquiries may be directed throughout the permit review process;

iii. an address to which people can write in order to be put on the facility mailing list;

iv. the location where copies of the permit application and any supporting documents can be viewed and copied;

v. a brief description of the facility and proposed operations, including the address or a map (e.g., a sketched or copied street map) of the facility location on the front page of the notice; and

vi. the date that the application was submitted.

3. Concurrent with the notice required under Subsection B.2 of this Section, the administrative authority must place the permit application and any supporting documents in a location accessible to the public in the vicinity of the facility or at the permitting agency's office.

#### C. Information Repository

1. Applicability. The requirements of this Section apply to all applications seeking RCRA permits for hazardous waste management units over which the department has permit issuance authority.

2. The administrative authority may assess the need, on a case-by-case basis, for an information repository. When assessing the need for an information repository, the administrative authority shall consider a variety of factors including the level of public interest, the type of facility, the presence of an existing repository, and the proximity to the nearest copy of the administrative record. If the administrative authority determines, at any time after submittal of a permit application, that there is a need for a repository, then the administrative authority shall notify the facility that it must establish and maintain an information repository. (See LAC 33:V.309.M for similar provisions relating to the information repository during the life of a permit.)

3. The information repository shall contain all documents, reports, data, and information deemed necessary by the administrative authority to fulfill the purposes for which the repository is established. The administrative authority shall have the discretion to limit the contents of the repository.

4. The information repository shall be located and maintained at a site chosen by the facility. If the administrative authority finds the site unsuitable for the purposes and persons for which it was established, due to problems with the location, hours of availability, access, or other relevant considerations, then the administrative authority shall specify a more appropriate site.

5. The administrative authority shall specify requirements for informing the public about the information repository. At a minimum, the administrative authority shall require the facility to provide a written notice about the information repository to all individuals on the facility mailing list.

6. The facility owner/operator shall be responsible for maintaining and updating the repository with appropriate information throughout a time period specified by the administrative authority. The administrative authority may close the repository at his or her discretion, based on the factors in Subsection C.2 of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:

## Chapter 9. Manifest System for TSD Facilities

### §905. Use of the Manifest System

\* \* \*

[See Prior Text in A-C]

D. Within three working days of the receipt of a shipment subject to LAC 33:V.Chapter 11.Subchapter B, the owner or operator of the facility must provide a copy of the tracking document bearing all required signatures to the notifier, to the Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting and Data Division (2222A), Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460, and to competent authorities of all other concerned countries. A copy of the tracking document must be maintained at the facility for at least three years from the date of signature.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 17:364 (April 1991), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

## Chapter 11. Generators

### Subchapter A. General

#### §1101. Applicability

\* \* \*

[See Prior Text in A]

B. Any person who exports or imports hazardous waste subject to the manifesting requirements of this Chapter, or subject to the universal waste management standards of LAC 33:V.Chapter 38, to or from the countries listed in LAC 33:V.1113.I.1.a for recovery must comply with Subchapter B of this Chapter.

C. Any person who imports hazardous waste from a foreign country into the state of Louisiana must comply with the standards applicable to generators established in this Chapter.

D. A farmer who generates waste pesticides which are hazardous waste and who complies with all of the requirements of LAC 33:V.105.D.5 is not required to comply with other standards in this Chapter or LAC 33:V.Subpart 1 with respect to such pesticides.

E. A person who generates a hazardous waste as defined in LAC 33:V.109 and further specified in LAC 33:V.Chapter 49 is subject to the requirements of this Chapter and penalties prescribed in the Act for noncompliance.

F. An owner or operator who initiates a shipment of hazardous waste from a treatment, storage, or disposal facility must comply with the generator standards established in this Chapter. The provisions of LAC 33:V.1109.E are applicable to the on-site accumulation of hazardous waste by generators. Therefore, the provisions of LAC 33:V.1109.E only apply to owners or operators who are shipping hazardous waste which they generated at that facility. A generator who treats, stores, or disposes of hazardous waste on-site must comply with the applicable standards and permit requirements set forth in LAC 33:V.Subpart 1.

G. A person who generates a hazardous waste as defined in LAC 33:V.109 and further specified in LAC 33:V.Chapter

49 is subject to the requirements of these chapters and shall register with the department in accordance with the applicable provisions of LAC 33:V.303.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 16:398 (May 1990), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 22:20 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

### **§1113. Exports of Hazardous Waste**

\* \* \*

[See Prior Text in A-H.2]

#### **I. International Agreements**

1. Any person who exports or imports hazardous waste subject to manifest requirements of this Chapter, or subject to the universal waste management standards of LAC 33:V.Chapter 38, to or from designated member countries of the Organization for Economic Cooperation and Development (OECD), as defined in LAC 33:V.1113.I.1.a, for purposes of recovery is subject to Subchapter B of this Section. The requirements of this Section and LAC 33:V.1123 do not apply.

a. For the purposes of these regulations the designated OECD countries consist of Australia, Austria, Belgium, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Japan, Luxembourg, Netherlands, New Zealand, Norway, Portugal, Spain, Sweden, Switzerland, Turkey, United Kingdom, and the United States.

b. For the purposes of these regulations, Canada and Mexico are considered OECD member countries only for the purpose of transit.

2. Any person who exports hazardous waste to or imports hazardous waste from a designated OECD member country for purposes other than recovery (e.g., incineration, disposal), Mexico (for any purpose), or Canada (for any purpose) remains subject to the requirements of this Section and LAC 33:V.1123.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 16:220 (March 1990), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:944 (September 1995), LR 22:20 (January 1996), LR 22:344 (May 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

#### **Subchapter B. Transfrontier Shipments of Hazardous Waste**

### **§1127. Transfrontier Shipments of Hazardous Waste for Recovery Within the OECD**

#### **A. Applicability**

1. The requirements of this Subchapter apply to imports and exports of wastes that are considered hazardous under United States national procedures and are destined for recovery operations in the countries listed in LAC 33:V.1113.I.1.a. A waste is considered hazardous under United States national procedures if it meets the definition of

hazardous waste in LAC 33:V.109 and is subject to either the manifesting requirements in LAC 33:V.1107 or to the universal waste management standards of LAC 33:V.Chapter 38.

2. Any person (notifier, consignee, or recovery facility operator) who mixes two or more wastes (including hazardous and nonhazardous wastes) or otherwise subjects two or more wastes (including hazardous and nonhazardous wastes) to physical or chemical transformation operations, and thereby creates a new hazardous waste, becomes a generator and assumes all subsequent generator duties under RCRA and any notifier duties, if applicable, under this Subchapter.

#### **B. General Conditions**

1. Scope. The level of control for exports and imports of waste is indicated by assignment of the waste to a green, amber, or red list and by United States national procedures as defined in Subsection A.1 of this Section. The green, amber, and red lists are incorporated by reference in LAC 33:V.110.A.16.

a. Wastes on the green list are subject to existing controls normally applied to commercial transactions, except as provided in the following:

i. green-list wastes that are considered hazardous under United States national procedures are subject to amber-list controls;

ii. green-list wastes that are sufficiently contaminated or mixed with amber-list wastes such that the waste or waste mixture is considered hazardous under United States national procedures are subject to amber-list controls;

iii. green-list wastes that are sufficiently contaminated or mixed with other wastes subject to red-list controls such that the waste or waste mixture is considered hazardous under United States national procedures must be handled in accordance with the red-list controls.

b. Wastes on the amber list that are considered hazardous under United States national procedures as defined in Subsection A.1 of this Section are subject to the amber-list controls of this Subchapter.

i. If amber-list wastes are sufficiently contaminated or mixed with other wastes subject to red-list controls such that the waste or waste mixture is considered hazardous under United States national procedures, the wastes must be handled in accordance with the red-list controls.

#### **ii. Reserved**

c. Wastes on the red list that are considered hazardous under United States national procedures as defined in Subsection A.1 of this Section are subject to the red-list controls of this Subchapter.

*Note:* Some wastes on the amber or red lists are not listed or otherwise identified as hazardous under RCRA (e.g., polychlorinated biphenyls) and, therefore, are not subject to the amber-list or red-list controls of this Subchapter. Regardless of the status of the waste under RCRA, however, other federal environmental statutes (e.g., the Toxic Substances Control Act) may restrict certain waste imports or exports. Such restrictions continue to apply without regard to this Subchapter.

d. Wastes not yet assigned to a list are eligible for transfrontier movements, as follows:

i. if such wastes are considered hazardous under United States national procedures as defined in Subsection A.1 of this Section, these wastes are subject to the red-list controls; or

ii. if such wastes are not considered hazardous under United States national procedures as defined in Subsection A.1 of this Section, such wastes may move as though they appeared on the green list.

## 2. General Conditions Applicable to Transfrontier Movements of Hazardous Waste

a. The waste must be destined for recovery operations at a facility that, under applicable domestic law, is operating or is authorized to operate in the importing country.

b. The transfrontier movement must be in compliance with applicable international transport agreements.

*Note:* These international agreements include, but are not limited to, the Chicago Convention (1944), ADR (1957), ADN (1970), MARPOL Convention (1973/1978), SOLAS Convention (1974), IMDG Code (1985), COTIF (1985), and RID (1985).

c. Any transit of waste through a non-OECD member country must be conducted in compliance with all applicable international and national laws and regulations.

## 3. Provisions Relating to Re-export for Recovery to a Third Country

a. Re-export of wastes subject to the amber-list control system from the United States, as the importing country, to a third country listed in LAC 33:V.1113.I.1.a may occur only after a notifier in the United States provides notification to and obtains consent of the competent authorities in the third country, the original exporting country, and new transit countries. The notification must comply with the notice and consent procedures in Subsection C of this Section for all concerned countries, and the original exporting country. The competent authorities of the original exporting country as well as the competent authorities of all other concerned countries have 30 days to object to the proposed movement.

i. The 30-day period begins once the competent authorities of both the initial exporting country and new importing country issue Acknowledgements of Receipt of the notification.

ii. The transfrontier movement may commence if no objection has been lodged after the 30-day period has passed or immediately after written consent is received from all relevant OECD importing and transit countries.

b. Re-export of wastes subject to the red-list control system from the original importing country to a third country listed in LAC 33:V.1113.I.1.a may occur only following notification of the competent authorities of the third country, the original exporting country, and new transit countries by a notifier in the original importing country in accordance with Subsection C of this Section. The transfrontier movement may not proceed until receipt by the original importing country of written consent from the competent authorities of the third country, the original exporting country, and new transit countries.

c. In the case of re-export of amber-list or red-list wastes to a country other than those in LAC 33:V.1113.I.1.a,

notification to and consent of the competent authorities of the original OECD member country of export and any OECD member countries of transit is required as specified in Subsection B.3.a-b of this Section in addition to compliance with all international agreements and arrangements to which the first importing OECD member country is a party and all applicable regulatory requirements for exports from the first importing country.

## C. Notification and Consent

1. Applicability. Consent must be obtained from the competent authorities of the relevant OECD importing and transit countries prior to exporting hazardous waste destined for recovery operations subject to this Subchapter. Hazardous wastes subject to amber-list controls are subject to the requirements of Subsection C.2 of this Section; hazardous wastes subject to red-list controls are subject to the requirements of Subsection C.3 of this Section; and wastes not identified on any list are subject to the requirements of Subsection C.4 of this Section.

2. Amber-List Wastes. The export from the United States of hazardous wastes as described in Subsection A.1 of this Section that appear on the amber list is prohibited unless the notification and consent requirements of this Subsection are met.

### a. Transactions Requiring Specific Consent

i. Notification. At least 45 days prior to commencement of the transfrontier movement, the notifier must provide written notification in English of the proposed transfrontier movement to the Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting and Data Division (2222A), Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, with the words "Attention: OECD Export Notification" prominently displayed on the envelope. This notification must include all of the information identified in Subsection C.5 of this Section. In cases where wastes having similar physical and chemical characteristics, the same United Nations classification, and the same RCRA waste codes are to be sent periodically to the same recovery facility by the same notifier, the notifier may submit one notification of intent to export these wastes in multiple shipments during a period of up to one year.

ii. Tacit Consent. If no objection has been lodged by any concerned country (i.e., exporting, importing, or transit countries) to a notification provided pursuant to Subsection C.2.a.i of this Section within 30 days after the date of issuance of the Acknowledgment of Receipt of notification by the competent authority of the importing country, the transfrontier movement may commence. Tacit consent expires one calendar year after the close of the 30-day period; renotification and renewal of all consents are required for exports after that date.

iii. Written Consent. If the competent authorities of all the relevant OECD importing and transit countries provide written consent in a period less than 30 days, the transfrontier movement may commence immediately after all necessary consents are received. Written consent expires for each relevant OECD importing and transit country one calendar year after the date of that country's consent unless otherwise

specified; renotification and renewal of each expired consent is required for exports after that date.

b. Shipments to Facilities Preapproved by the Competent Authorities of the Importing Countries to Accept Specific Wastes for Recovery

i. The notifier must provide EPA the information identified in Subsection C.5 of this Section, in English, at least 10 days in advance of commencing shipment to a preapproved facility. The notification should indicate that the recovery facility is preapproved and may apply to a single specific shipment or to multiple shipments as described in Subsection C.2.a.i of this Section. This information must be sent to the Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting and Data Division (2222A), Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, with the words "OECD Export Notification-Preapproved Facility" prominently displayed on the envelope.

ii. Shipments may commence after the notification required in Subsection C.2.a.i of this Section has been received by the competent authorities of all concerned countries, unless the notifier has received information indicating that the competent authorities of one or more concerned countries objects to the shipment.

3. Red-List Wastes. The export from the United States of hazardous wastes as described in Subsection A.1 of this Section that appear on the red list is prohibited unless notice is given in accordance with Subsection C.2.a.i of this Section and the notifier receives written consent from the importing country and any transit countries prior to commencement of the transfrontier movement.

4. Unlisted Wastes. Wastes not assigned to the green, amber, or red list that are considered hazardous under United States national procedures as defined in Subsection A.1 of this Section are subject to the notification and consent requirements established for red-list wastes in accordance with Subsection C.3 of this Section. Unlisted wastes that are not considered hazardous under United States national procedures as defined in Subsection A.1 of this Section are not subject to amber or red controls when exported or imported.

5. Notification Information. Notifications submitted under this Section must include:

- a. serial number or other accepted identifier of the notification form;
- b. notifier name and EPA identification number (if applicable), address, and telephone and telefax numbers;
- c. importing recovery facility name, address, telephone and telefax numbers, and technologies employed;
- d. consignee name (if not the owner or operator of the recovery facility), address, and telephone and telefax numbers; whether the consignee will engage in waste exchange or storage prior to delivering the waste to the final recovery facility and identification of recovery operations to be employed at the final recovery facility;
- e. intended transporters and/or their agents;
- f. country of export and relevant competent authority and point of departure;

g. countries of transit and relevant competent authorities and points of entry and departure;

h. country of import and relevant competent authority and point of entry;

i. statement of whether the notification is a single notification or a general notification. If general, include the period of validity requested;

j. date foreseen for commencement of transfrontier movement;

k. designation of waste type(s) from the appropriate list (amber or red and waste list code), descriptions of each waste type, estimated total quantity of each, RCRA waste code, and United Nations number for each waste type; and

l. certification/declaration signed by the notifier that states:

"I certify that the above information is complete and correct to the best of my knowledge. I also certify that legally enforceable written contractual obligations have been entered into and that any applicable insurance or other financial guarantees are or shall be in force covering the transfrontier movement."

Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

*Note:* The United States does not currently require financial assurance; however, United States exporters may be asked by other governments to provide and certify to such assurance as a condition of obtaining consent to a proposed movement.

#### D. Tracking Document

1. All United States parties subject to the contract provisions of Subsection E of this Section must ensure that a tracking document meeting the conditions of Subsection D.2 of this Section accompanies each transfrontier shipment of wastes subject to amber-list or red-list controls from the initiation of the shipment until it reaches the final recovery facility, including cases in which the waste is stored and/or exchanged by the consignee prior to shipment to the final recovery facility, except as provided in Subsection D.1.a-b of this Section.

a. For shipments of hazardous waste within the United States solely by water (bulk shipments only) the generator must forward the tracking document with the manifest to the last water (bulk shipment) transporter to handle the waste in the United States if exported by water (in accordance with the manifest routing procedures in LAC 33:V.1107.D.3).

b. For rail shipments of hazardous waste within the United States which originate at the site of generation, the generator must forward the tracking document with the manifest (in accordance with the routing procedures for the manifest in LAC 33:V.1107.D.4) to the next nonrail transporter, if any, or the last rail transporter to handle the waste in the United States if exported by rail.

2. The tracking document must include all information required under Subsection C of this Section for notification and the following:

- a. date shipment commenced;
- b. name (if not notifier), address, and telephone and telefax numbers of primary exporter;
- c. company name and EPA ID number of all transporters;

d. identification (license, registered name, or registration number) of means of transport, including types of packaging;

e. any special precautions to be taken by transporters;

f. certification/declaration signed by notifier that no objection to the shipment has been lodged as follows:

"I certify that the above information is complete and correct to the best of my knowledge. I also certify that legally enforceable written contractual obligations have been entered into, that any applicable insurance or other financial guarantees are or shall be in force covering the transfrontier movement, and that:

[List the following sentence that is applicable]

1. all necessary consents have been received; or

2. the shipment is directed at a recovery facility within the OECD area and no objection has been received from any of the concerned countries within the 30 day tacit consent period; or

3. the shipment is directed at a recovery facility preauthorized for that type of waste within the OECD area; such an authorization has not been revoked, and no objection has been received from any of the concerned countries."

Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

and

g. appropriate signatures for each custody transfer (e.g., transporter, consignee, and owner or operator of the recovery facility).

3. Notifiers also must comply with the special manifest requirements of LAC 33:V.1113.E.1, 2, 3, 5, and 9; and consignees must comply with the import requirements of LAC 33:V. 1123.

4. Each United States person that has physical custody of the waste from the time the movement commences until it arrives at the recovery facility must sign the tracking document (e.g., transporter, consignee, and owner or operator of the recovery facility).

5. Within three working days of the receipt of imports subject to this Subchapter, the owner or operator of the United States recovery facility must send signed copies of the tracking document to the notifier, to the Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting and Data Division (2222A), Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460, and to the competent authorities of the exporting and transit countries.

#### E. Contracts

1. Transfrontier movements of hazardous wastes subject to amber or red control procedures are prohibited unless they occur under the terms of a valid written contract, chain of contracts, or equivalent arrangements (when the movement occurs between parties controlled by the same corporate or legal entity). Such contracts or equivalent arrangements must be executed by the notifier and the owner or operator of the recovery facility and must specify responsibilities for each. Contracts or equivalent arrangements are valid for the purposes of this Section only if persons assuming obligations under the contracts or equivalent arrangements have appropriate legal status to conduct the operations specified in the contract or equivalent arrangement.

2. Contracts or equivalent arrangements must specify the name and EPA ID number, where available, of:

a. the generator of each type of waste;

b. each person who will have physical custody of the wastes;

c. each person who will have legal control of the wastes; and

d. the recovery facility.

3. Contracts or equivalent arrangements must specify which party to the contract will assume responsibility for alternate management of the wastes if its disposition cannot be carried out as described in the notification of intent to export. In such cases, contracts must specify that:

a. the person having actual possession or physical control over the wastes will immediately inform the notifier and the competent authorities of the exporting and importing countries and, if the wastes are located in a country of transit, the competent authorities of that country; and

b. the person specified in the contract will assume responsibility for the adequate management of the wastes in compliance with applicable laws and regulations including, if necessary, arranging their return to the original country of export.

4. Contracts must specify that the consignee will provide the notification required in Subsection B.3 of this Section prior to re-export of controlled wastes to a third country.

5. Contracts or equivalent arrangements must include provisions for financial guarantees, if required by the competent authorities of any concerned country, in accordance with applicable national or international law requirements.

*Note:* Financial guarantees so required are intended to provide for alternate recycling, disposal, or other means of sound management of the wastes in cases where arrangements for the shipment and the recovery operations cannot be carried out as foreseen. The United States does not require such financial guarantees at this time; however, some OECD countries do. It is the responsibility of the notifier to ascertain and comply with such requirements; in some cases, transporters or consignees may refuse to enter into the necessary contracts absent specific references or certifications to financial guarantees.

6. Contracts or equivalent arrangements must contain provisions requiring each contracting party to comply with all applicable requirements of this Subchapter.

7. Upon request by EPA, United States notifiers, consignees, or recovery facilities must submit to EPA copies of contracts, chain of contracts, or equivalent arrangements (when the movement occurs between parties controlled by the same corporate or legal entity). Information contained in the contracts or equivalent arrangements for which a claim of confidentiality is asserted in accordance with 40 CFR 2.203(b) will be treated as confidential and will be disclosed by EPA only as provided in 40 CFR 260.2.

*Note:* Although the United States does not require routine submission of contracts at this time, OECD Council Decision C(92)39/FINAL allows members to impose such requirements. When other OECD countries require submission of partial or complete copies of the contract as a condition to granting consent to proposed

movements, EPA will request the required information; absent submission of such information, some OECD countries may deny consent for the proposed movement.

#### F. Provisions Relating to Recognized Traders

1. A recognized trader who takes physical custody of a waste and conducts recovery operations (including storage prior to recovery) is acting as the owner or operator of a recovery facility and must be so authorized in accordance with all applicable federal laws.

2. A recognized trader acting as a notifier or consignee for transfrontier shipments of waste must comply with all the requirements of this Subchapter associated with being a notifier or consignee.

#### G. Reporting and Recordkeeping

1. Annual Reports. For all waste movements subject to this Subchapter, persons (e.g., notifiers, recognized traders) who meet the definition of primary exporter in LAC 33:V.109 shall file an annual report with the Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting and Data Division (2222A), Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, no later than March 1 of each year summarizing the types, quantities, frequency, and ultimate destination of all such hazardous waste exported during the previous calendar year. (If the primary exporter is required to file an annual report for waste exports that are not covered under this Subchapter, he may include all export information in one report provided the information required by this Subsection on exports of waste destined for recovery within the designated OECD member countries is contained in a separate Section.) Such reports shall include the following:

- a. the EPA identification number, name, and mailing and site address of the notifier filing the report;
- b. the calendar year covered by the report;
- c. the name and site address of each final recovery facility;
- d. by final recovery facility, for each hazardous waste exported, a description of the hazardous waste, the EPA hazardous waste number (from LAC 33:V.Chapter 49), designation of waste type(s) from OECD waste lists and applicable waste code from the OECD lists, the DOT hazard class, the name and U.S. EPA identification number (where applicable) for each transporter used, the total amount of hazardous waste shipped pursuant to this Subchapter, and the number of shipments pursuant to each notification;
- e. in even numbered years, for each hazardous waste exported, except for hazardous waste produced by exporters of greater than 100kg but less than 1,000 kg in a calendar month and except for hazardous waste for which information was already provided pursuant to LAC 33:V.1111.B:
  - i. a description of the efforts undertaken during the year to reduce the volume and toxicity of waste generated; and
  - ii. a description of the changes in volume and toxicity of the waste actually achieved during the year in comparison to previous years to the extent such information is available for years prior to 1984; and
- f. a certification signed by the person acting as primary exporter that states:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment."

2. Exception Reports. Any person who meets the definition of primary exporter in LAC 33:V.109 must file an exception report, in lieu of the requirements of LAC 33:V.1111.C, with the administrative authority if any of the following occurs:

- a. he has not received a copy of the tracking documentation signed by the transporter stating point of departure of the waste from the United States within 45 days from the date it was accepted by the initial transporter;
- b. within 90 days from the date the waste was accepted by the initial transporter, the notifier has not received written confirmation from the recovery facility that the hazardous waste was received; or
- c. the waste is returned to the United States.

#### 3. Recordkeeping

- a. Persons who meet the definition of primary exporter in LAC 33:V.109 shall keep the following records:
- i. a copy of each notification of intent to export and all written consents obtained from the competent authorities of concerned countries for a period of at least three years from the date the hazardous waste was accepted by the initial transporter;
  - ii. a copy of each annual report for a period of at least three years from the due date of the report; and
  - iii. a copy of any exception reports and a copy of each confirmation of delivery (i.e., tracking documentation) sent by the recovery facility to the notifier for at least three years from the date the hazardous waste was accepted by the initial transporter or received by the recovery facility, whichever is applicable.

b. The periods of retention referred to in this Section are extended automatically during the course of any unresolved enforcement action regarding the regulated activity or as requested by the administrative authority.

#### H. Preapproval for United States Recovery Facilities Reserved.

#### I. OECD Waste Lists

1. General. For the purposes of this Subchapter, a waste is considered hazardous under United States national procedures, and hence subject to this Subchapter, if the waste:

- a. meets the definition of hazardous waste in LAC 33:V.109; and

b. is subject to either the manifesting requirements of this Chapter or to the universal waste management standards of LAC 33:V.Chapter 38.

2. If a waste is hazardous under Subsection I.1.a of this Section and it appears on the amber or red list, it is subject to amber-list or red-list requirements respectively.

3. If a waste is hazardous under Subsection I.1.a of this Section and it does not appear on either the amber or red list, it is subject to red-list requirements.

4. The appropriate control procedures for hazardous wastes and hazardous waste mixtures are addressed in Subsection B of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:

### **Chapter 13. Transporters**

#### **§1301. Applicability**

\* \* \*

[See Prior Text in A-D.2]

E. A transporter of hazardous waste must also comply with LAC 33:V.Chapter 11 if he transports hazardous waste into Louisiana from abroad or mixes hazardous wastes of different United States Department of Transportation shipping descriptions by placing them into a single container.

F. A transporter of hazardous waste subject to the manifesting requirements of LAC 33:V.Chapter 11 or subject to the waste management standards of LAC 33:V.Chapter 38 that is being imported from or exported to any of the countries listed in LAC 33:V.1113.I.1.a for purposes of recovery is subject to this Chapter and to all other relevant requirements of LAC 33:V.Chapter 11.Subchapter B including, but not limited to, LAC 33:V.1127.D for tracking documents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

#### **§1307. The Manifest System**

A. A transporter may not accept hazardous waste from a generator or another transporter unless it is accompanied by a manifest, signed by the generator in accordance with the provisions of LAC 33:V.1107. The transportation of any hazardous wastes without a manifest shall be deemed a violation of these regulations and the Act. In the case of exports other than those subject to LAC 33:V.Chapter 11.Subchapter B, a transporter may not accept such waste from a primary exporter or other person:

\* \* \*

[See Prior Text in A.1]

2. unless, in addition to a manifest signed in accordance with LAC 33:V.1107, such waste is also accompanied by an EPA Acknowledgment of Consent which, except for shipment by rail, is attached to the manifest (or shipping paper for exports by water [bulk shipment]). For exports of hazardous waste subject to the requirements of LAC 33:V.Chapter 11.Subchapter B, a transporter may not accept hazardous waste without a tracking document that includes all information required by LAC 33:V.1127.D.

\* \* \*

[See Prior Text in B-H]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 16:220 (March 1990), LR 18:1256 (November 1992), LR 20:1109 (October 1994), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

### **Chapter 15. Treatment, Storage, and Disposal Facilities**

#### **§1531. Required Notices**

A. The owner or operator of a facility that has arranged to receive hazardous waste from a foreign source must notify the administrative authority in writing at least four weeks in advance of the date the waste is expected to arrive at the facility. Notice of subsequent shipments of the same waste from the same foreign source is not required.

B. The owner or operator of a recovery facility that has arranged to receive hazardous waste subject to LAC 33:V.Chapter 11.Subchapter B must provide a copy of the tracking document bearing all required signatures to the notifier, to the Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting and Data Division (2222A), Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, and to the competent authorities of all other concerned countries within three working days of receipt of the shipment. The original of the signed tracking document must be maintained at the facility for at least three years.

C. The owner or operator of a facility that receives hazardous waste from an off-site source (except where the owner or operator is also the generator) must inform the generator in writing that he has the appropriate permit(s) for, and will accept, the waste the generator is shipping. The owner or operator must keep a copy of this written notice as part of the operating record.

D. Before transferring ownership or operation of a facility during its operating life, or of a disposal facility during the post-closure care period, the owner or operator must notify the new owner or operator in writing of the requirements of LAC 33:V.Subpart 1.

E. An owner's or operator's failure to notify the new owner or operator of the requirements in no way relieves the new owner or operator of his obligation to comply with all applicable requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 15:378 (May 1989), LR 16:220 (March 1990), LR 16:399 (May 1990), LR 18:1256 (November 1992), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

### **Chapter 22. Prohibitions on Land Disposal**

#### **Subchapter A. Land Disposal Restrictions**

#### **§2201. Purpose, Scope, and Applicability**

\* \* \*

[See Prior Text in A-G.3]

4. wastes that are hazardous only because they exhibit a hazardous characteristic, and which are otherwise prohibited under this Chapter, are not prohibited if the wastes:

a. are disposed into a nonhazardous or hazardous injection well as defined in LAC 43:XVII.203.C; and

b. do not exhibit any prohibited characteristic of hazardous waste identified in LAC 33:V.4903 at the point of injection at the well head.

5. wastes that are hazardous only because they exhibit a hazardous characteristic and which are otherwise prohibited under this Chapter are not prohibited if the wastes meet any of the following criteria, unless the wastes are subject to a specified method of treatment other than DEACT in Table 2 of this Chapter, or are D003 reactive cyanide:

a. the wastes are managed in a treatment system which subsequently discharges to waters of the United States pursuant to a permit issued under section 402 of the Clean Water Act; or

b. the wastes are treated for purposes of the pretreatment requirements of section 307 of the Clean Water Act; or

c. the wastes are managed in a zero discharge system engaged in Clean Water Act-equivalent treatment as defined in LAC 33:V.2221.D.1; and

d. the wastes no longer exhibit a prohibited characteristic at the point of land disposal (i.e., placement in a surface impoundment).

\* \* \*

[See Prior Text in H-I.5.c]

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2180 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:398 (May 1990), LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 18:723 (July 1992), LR 21:266 (March 1995), LR 22:22 (January 1996), LR 23:568 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

### **§2203. Definitions Applicable to this Chapter**

\* \* \*

[See Prior Text in A-A.Injection Zone]

*Inorganic Metal-Bearing Waste*—a waste for which the department has established treatment standards for metal hazardous constituents and which does not otherwise contain significant organic or cyanide content as described in LAC 33:V.2207.C.1, and is specifically listed in Table 12 of this Chapter.

\* \* \*

[See Prior Text]

*Underlying Hazardous Constituent*—any constituent listed in LAC 33:V.Chapter 22.Table 7, Universal Treatment Standards, except fluoride, vanadium, and zinc, which can reasonably be expected to be present at the point of generation of the hazardous waste, at a concentration above the constituent-specific UTS treatment standard.

*Wastewaters*—wastes that contain less than 1 percent by weight total organic carbon (TOC) and less than 1 percent by weight total suspended solids (TSS).

\* \* \*

[See Prior Text in B]

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2180 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:221 (March 1990), LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 21:266 (March 1995), LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

### **§2207. Dilution Prohibited as a Substitute for Treatment**

A. Except as provided in Subsection B of this Section, no generator, transporter, handler, or owner or operator of a treatment, storage, or disposal facility shall in any way dilute a prohibited waste or the residual from treatment of a prohibited waste as a substitute for adequate treatment to achieve compliance with this Chapter, to circumvent the effective date of or otherwise avoid a prohibition listed in Subchapter A of this Chapter, or to circumvent a land disposal prohibition imposed by RCRA section 3004.

B. Dilution of wastes that are hazardous only because they exhibit a characteristic in a treatment system that include land-based units which treat wastes subsequently discharged to a water of the United States pursuant to a permit issued under section 402 of the Clean Water Act (CWA) or which treat wastes in a CWA-equivalent treatment system or which treat wastes for purposes of pretreatment requirements under section 307 of the CWA is not impermissible dilution for purposes of this Section unless a method other than DEACT has been specified in LAC 33:V.2223 as the treatment standard, or unless the waste is a D003 reactive cyanide wastewater or nonwastewater.

C. Combustion of the hazardous waste codes listed in Table 12 of this Chapter is prohibited, unless the waste, at the point of generation, or after any bona fide treatment, such as cyanide destruction prior to combustion, can be demonstrated to comply with one or more of the following criteria (unless otherwise specifically prohibited from combustion):

1. the waste contains hazardous organic constituents or cyanide at levels exceeding the constituent-specific treatment standard found in Table 7 of this Chapter;

2. the waste consists of organic, debris-like materials (e.g., wood, paper, plastic, or cloth) contaminated with an inorganic metal-bearing hazardous waste;

3. the waste, at point of generation, has reasonable heating value, such as greater than or equal to 5,000 BTU per pound;

4. the waste is cogenerated with wastes for which combustion is a required method of treatment;

5. the waste is subject to federal and/or state requirements necessitating reduction of organics (including biological agents); or

6. the waste contains greater than 1 percent Total Organic Carbon (TOC).

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2180 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 21:266 (March 1995), LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

### **§2221. Schedule of Wastes Identified or Listed After November 8, 1984**

\* \* \*

[See Prior Text in A-E.5]

F. Waste-Specific Prohibitions: Spent Aluminum Potliners and Reactive and Carbamate Wastes

1. Effective March 20, 1998, the wastes specified as EPA Hazardous Waste Numbers K156-K159, K161, P127,

P128, P185, P188-P192, P194, P196-P199, P201-P205, U271, U277-U280, U364-U367, U372, U373, U375-U379, U381-U387, U389-U396, U400-U404, U407, and U409-U411 are prohibited from land disposal. In addition, soil and debris contaminated with these wastes are prohibited from land disposal.

2. Effective March 20, 1998, the wastes identified in LAC 33:V.4903.D as D003 that are managed in systems other than those whose discharge is regulated under the Clean Water Act (CWA) or that inject in Class I deep wells regulated under the Safe Drinking Water Act (SDWA) or that are zero dischargers that engage in CWA-equivalent treatment before ultimate land disposal, are prohibited from land disposal. This prohibition does not apply to unexploded ordnance and other explosive devices, which have been the subject of an emergency response. Such D003 wastes are prohibited unless they meet the treatment standard of DEACT before land disposal (see LAC 33:V.2223).

3. Effective March 20, 1998, the wastes specified in LAC 33:V.4901.C as EPA Hazardous Waste Number K088 are prohibited from land disposal. In addition, soil and debris contaminated with these wastes are prohibited from land disposal.

4. On April 8, 1998, radioactive wastes mixed with K088, K156-K161, P127, P128, P185, P188-P192, P194, P196-P199, P201-P205, U271, U277-U280, U364-U367, U372, U373, U375-U379, U381-U387, U389-U396, U400-U404, U407, and U409-U411 are also prohibited from land disposal. In addition, soil and debris contaminated with these radioactive mixed wastes are prohibited from land disposal.

5. Between March 20, 1998, and April 8, 1998, the wastes included in Subsection F.1, 3, and 4 of this Section may be disposed in a landfill or surface impoundment, only if such unit is in compliance with the requirements specified in LAC 33:V.2239.I.2.

6. The requirements of Subsection F.1-4 of this Section do not apply if:

- a. the wastes meet the applicable treatment standards specified in this Chapter;
- b. persons have been granted an exemption from a prohibition pursuant to a petition under LAC 33:V.2241, with respect to those wastes and units covered by the petition;
- c. the wastes meet the applicable alternate treatment standards established pursuant to a petition granted under LAC 33:V.2231; or
- d. persons have been granted an extension to the effective date of a prohibition pursuant to LAC 33:V.2239, with respect to these wastes covered by the extension.

7. To determine whether a hazardous waste identified in this Section exceeds the applicable treatment standards specified in LAC 33:V.2223, the initial generator must test a sample of the waste extract or the entire waste, depending on whether the treatment standards are expressed as concentrations in the waste extract or the waste, or the generator may use knowledge of the waste. If the waste contains constituents in excess of the applicable treatment levels, the waste is prohibited from land disposal and all

requirements of this Chapter are applicable, except as otherwise specified.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 17:658 (July 1991), LR 21:266 (March 1995), LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

### **§2223. Applicability of Treatment Standards**

A. A prohibited waste identified in the LAC 33:V.Chapter 22.Table 2 may be land disposed only if it meets the requirements found in Table 2. For each waste, the table identifies one of the three types of treatment standard requirements:

\* \* \*

[See Prior Text in A.1-B]

C. For characteristic wastes (D001-D003, and D012-D043) that are subject to treatment standards in LAC 33:V.Chapter 22.Table 2, "Treatment Standards for Hazardous Wastes," all underlying hazardous constituents (as defined in LAC 33:V.2203) must meet Universal Treatment Standards, found in LAC 33:V.Chapter 22.Table 7, prior to land disposal as defined in LAC 33:V.2203.

\* \* \*

[See Prior Text in D]

E. Between August 26, 1996, and August 26, 1997, the treatment standards for the wastes specified as EPA Hazardous Waste Numbers K156-K159, K161,P127, P128, P185, P188-P192, P194, P196-P199, P201-P205, U271, U278-U280, U364-U367, U372, U373, U375-U379, U381-U387, U389-U396, U404, and U409-U411 and soil contaminated with these wastes were satisfied by either meeting the constituent concentrations presented in LAC 33:V.Chapter 22.Table 2, or by treating the waste by the following technologies: combustion, as defined by the technology code CMBST at LAC 33:V.Chapter 22.Table 3, for nonwastewaters; and biodegradation as defined by the technology code BIODG, carbon adsorption as defined by the technology code CARBN, chemical oxidation as defined by the technology code CHOXD, or combustion as defined as technology code CMBST at LAC 33:V.Chapter 22.Table 3, for wastewaters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 21:266 (March 1995), LR 22:22 (January 1996), LR 22:819 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

### **§2235. Landfills and Surface Impoundments Disposal Restrictions**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 22:22

(January 1996), repealed by the Office of Waste Services, Hazardous Waste Division, LR 24:

**§2245. Generators' Waste Analysis, Recordkeeping, and Notice Requirements**

A. Except as specified in LAC 33:V.2213, if a generator's waste is listed in LAC 33:V.Chapter 49, the generator must test his or her waste or test an extract using Method 1311, the Toxicity Characteristic Leaching Procedure, described in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110, or use knowledge of the waste to determine if the waste is prohibited from land disposal under this Chapter. Except as specified in LAC 33:V.2213, if a generator's waste exhibits one or more of the characteristics set out at LAC 33:V.4903, the generator must test an extract using Method 1311, the Toxicity Characteristic Leaching Procedure, described in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110, or use knowledge of the waste, to determine if the waste is prohibited from land disposal under this Chapter. If the generator determines that his waste exhibits the characteristic of ignitability (D001) (and is not in the High TOC Ignitable Liquids Subcategory or is not treated by CMBST or RORGS of Table 3 of this Chapter) and/or the characteristic of corrosivity (D002) and/or reactivity (D003) and/or the characteristic of organic toxicity (D012-D043), and the waste is prohibited under LAC 33:V.2221.D-F, the generator must determine the underlying hazardous constituents, as defined in LAC 33:V.2203, in the D001, D002, D003, or D012-D043 waste.

\* \* \*

[See Prior Text in B-B.1]

2. the waste constituents that the person treating the waste will monitor, if monitoring will not include all regulated constituents, for wastes F001-F005, F039, D001, D002, D003, and D012-D043. Generators must also include whether the waste is a nonwastewater or wastewater (as defined in LAC 33:V.2203) and indicate the subcategory of the waste (such as "D003 reactive cyanide"), if applicable;

\* \* \*

[See Prior Text in B.3-4]

5. for hazardous debris, the contaminants subject to treatment as provided by LAC 33:V.2230 and the following statement: "This hazardous debris is subject to the alternative treatment standards of LAC 33:V.2230."

C. If a generator determines that he or she is managing a waste prohibited under this Chapter and determines that the waste can be land disposed without further treatment, with each shipment of waste he or she must submit to the treatment, storage, or land disposal facility a notice and certification stating that the waste meets the applicable treatment standards set forth in LAC 33:V.Chapter 22.Subchapter A and the applicable prohibitions set forth in LAC 33:V.2213. Generators of hazardous debris that is excluded from the definition of hazardous waste under LAC 33:V.109 (i.e., debris that the administrative authority has determined does not contain hazardous waste), however, are not subject to these notification and certification requirements.

\* \* \*

[See Prior Text in C.1-1.a]

b. the waste constituents that the person treating the waste will monitor, if monitoring will not include all regulated constituents, for wastes F001-F005, F039, D001, D002, D003, and D012-D043. Generators must also include whether the waste is a nonwastewater or wastewater (as defined in LAC 33:V.2203) and indicate the subcategory of the waste (such as "D003 reactive cyanide"), if applicable;

\* \* \*

[See Prior Text in C.1.c-D.1]

2. the waste constituents that the person treating the waste will monitor, if monitoring will not include all regulated constituents, for wastes F001-F005, F039, D001, D002, D003, and D012-D043. Generators must also include whether the waste is a nonwastewater or wastewater (as defined in LAC 33:V.2203) and indicate the subcategory of the waste (such as "D003 reactive cyanide"), if applicable;

\* \* \*

[See Prior Text in D.3-K]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 21:266 (March 1995), LR 21:267 (March 1995), LR 21:1334 (December 1995), LR 22:22 (January 1996), LR 22:820 (September 1996), LR 22:1130 (November 1996), LR 23:565 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

**§2246. Special Rules Regarding Wastes That Exhibit a Characteristic**

A. The initial generator of a solid waste must determine each EPA Hazardous Waste Number (waste code) applicable to the waste in order to determine the applicable treatment standards under this Chapter. For purposes of this Chapter, the waste will carry the waste code for any applicable listing under LAC 33:V.4901. In addition, the waste will carry one or more of the waste codes under LAC 33:V.4903, where the waste exhibits a characteristic, except in the case when the treatment standard for the waste code listed in LAC 33:V.4901 operates in lieu of the standard for the waste code under LAC 33:V.4903, as specified in LAC 33:V.2246.B. If the generator determines that his waste displays a hazardous characteristic (and the waste is not a D004-D011 waste, a High TOC D001, or is not treated by CMBST, or RORGS of LAC 33:V.Chapter 22.Table 3), the generator must determine what underlying hazardous constituents (as defined in LAC 33:V.2203.A) are reasonably expected to be present above the universal treatment standards found in LAC 33:V.2233.

\* \* \*

[See Prior Text in B-E.3.c]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 16:1057 (December 1990), amended LR 17:658 (July 1991), LR 21:266 (March 1995), LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

**§2247. Owners or Operators of Treatment or Disposal Facilities: Testing, Waste Minimization, Recordkeeping, and Notice Requirements**

\* \* \*

[See Prior Text in A-B.1]

2. the waste constituents to be monitored, if monitoring will not include all regulated constituents, for wastes F001-F005, F039, D001, D002, D003, and D012-D043. Generators must also include whether the waste is a nonwastewater or wastewater (as defined in LAC 33:V.2203) and indicate the subcategory of the waste (such as "D003 reactive cyanide"), if applicable;

\* \* \*

[See Prior Text in B.3-C.3]

4. For characteristic wastes D001, D002, D003, and D012-D043 that are subject to the treatment standards in LAC 33:V.2223 (other than those expressed as a required method of treatment), that are reasonably expected to contain underlying hazardous constituents as defined in LAC 33:V.2203, that are treated on-site to remove the hazardous characteristic and are then sent off-site for treatment of underlying hazardous constituents, the certification must state the following:

"I certify under penalty of law that the waste has been treated in accordance with the requirements of LAC 33:V.2223 to remove the hazardous characteristic. This decharacterized waste contains underlying hazardous constituents that require further treatment to meet

universal treatment standards. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment."

5. For characteristic wastes D001, D002, D003, and D012-D043 that contain underlying hazardous constituents, as defined in LAC 33:V.2203.A, and that are treated on-site to remove the hazardous characteristic and to treat underlying hazardous constituents to levels in LAC 33:V.2233.Universal Treatment Standards, the certification must state the following:

"I certify under penalty of law that the waste has been treated in accordance with the requirements of LAC 33:V.2223 to remove the hazardous characteristic and that underlying hazardous constituents, as defined in LAC 33:V.2203.A, have been treated on-site to meet the LAC 33:V.2233.Universal Treatment Standards. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment."

\* \* \*

[See Prior Text in D-H]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 21:266 (March 1995), LR 21:267 (March 1995), LR 21:1334 (December 1995), LR 22:22 (January 1996), LR 22:820 (September 1996), LR 23:566 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

**Appendix**

**Table 2. Treatment Standards for Hazardous Wastes**

Waste Code	Waste Description and Treatment/Regulatory Subcategory <sup>1</sup>	Regulated Hazardous Constituent		Wastewaters	Nonwastewaters
		Common Name	CAS <sup>2</sup> Number	Concentration mg/l <sup>3</sup> ; or Technology Code <sup>4</sup>	Concentration in mg/kg <sup>5</sup> unless noted as "mg/l TCLP" or Technology Code <sup>4</sup>
D001 <sup>9</sup>	Ignitable Characteristic Wastes, except for the LAC 33:V.4903.B.1 High TOC Subcategory	NA	NA	DEACT and meet LAC 33:V.2233 standards <sup>8</sup> ; or RORGS; or CMBST	DEACT and meet LAC 33:V.2233 standards <sup>8</sup> ; or RORGS; or CMBST
	High TOC Ignitable Characteristic Liquids Subcategory based on LAC 33:V 4903.B.1. - Greater than or equal to 10 percent total organic carbon. (Note: This subcategory consists of nonwastewaters only.)	NA	NA	NA	RORGS; or CMBST
D002 <sup>9</sup>	Corrosive Characteristic Wastes	NA	NA	DEACT and meet LAC 33:V.2233 standards <sup>8</sup>	DEACT and meet LAC 33:V.2233 standards <sup>8</sup>

\* \* \*

[See Prior Text in D002, D004-D011 Radioactive High Level Wastes]

D003 <sup>9</sup>	Reactive Sulfides Subcategory based on LAC 33:V.4903.D.5.	NA	NA	DEACT	DEACT
	Explosives Subcategory based on LAC 33:V.4903.D.6, 7, and 8.	NA	NA	DEACT and meet LAC 33:V.2233 standards <sup>8</sup>	DEACT and meet LAC 33:V.2233 standards <sup>8</sup>
	Unexploded ordnance and other explosive devices that have been the subject of emergency response.	NA	NA	DEACT	DEACT
	Other Reactives Subcategory based on LAC 33:V.4903.D.1.	NA	NA	DEACT and meet LAC 33:V.2233 standards <sup>8</sup>	DEACT and meet LAC 33:V.2233 standards <sup>8</sup>
	Water Reactive Subcategory based on LAC 33:V.4903.D.2, 3, and 4. (Note: This subcategory consists of nonwastewaters only.)	NA	NA	NA	DEACT and meet LAC 33:V.2233 standards <sup>8</sup>
	Reactive Cyanides Subcategory based on LAC 33:V.4903.D.5.	Cyanides (Total) <sup>7</sup>	57-12-5	Reserved	590
	Cyanides (Amenable) <sup>7</sup>	57-12-5	0.86	30	
* * *					
[See Prior Text in D004 - D011]					
D012 <sup>9</sup>	Wastes that are TC for Endrin based on the TCLP in SW846 Method 1311.	Endrin	72-20-8	BIODG; or CMBST	0.13 and meet LAC 33:V.2233 standards <sup>8</sup>
		Endrin aldehyde	7421-93-4	BIODG; or CMBST	0.13 and meet LAC 33:V.2233 standards <sup>8</sup>
D013 <sup>9</sup>	Wastes that are TC for Lindane based on the TCLP in SW846 Method 1311.	alpha-BHC	319-84-6	CARB; or CMBST	0.066 and meet LAC 33:V.2233 standards <sup>8</sup>
		beta-BHC	319-85-7	CARB; or CMBST	0.066 and meet LAC 33:V.2233 standards <sup>8</sup>
		delta-BHC	319-86-8	CARB; or CMBST	0.066 and meet LAC 33:V.2233 standards <sup>8</sup>
		gamma-BHC (Lindane)	58-89-9	CARB; or CMBST	0.066 and meet LAC 33:V.2233 standards <sup>8</sup>
D014 <sup>9</sup>	Wastes that are TC for Methoxychlor based on the TCLP in SW846 Method 1311.	Methoxychlor	72-43-5	WETOX or CMBST	0.18 and meet LAC 33:V.2233 standards <sup>8</sup>
D015 <sup>9</sup>	Wastes that are TC for Toxaphene based on the TCLP in SW846 Method 1311.	Toxaphene	8001-35-2	BIODG or CMBST	2.6 and meet LAC 33:V.2233 standards <sup>8</sup>
D016 <sup>9</sup>	Wastes that are TC for 2,4-D (2,4-Dichlorophenoxyacetic acid) based on the TCLP in SW846 Method 1311.	2,4-D (2,4-Dichlorophenoxyacetic acid)	94-75-7	CHOXD, BIODG, or CMBST	10 and meet LAC 33:V.2233 standards <sup>8</sup>
D017 <sup>9</sup>	Wastes that are TC for 2,4,5-TP (Silvex) based on the TCLP in SW846 Method 1311.	2,4,5-TP (Silvex)	93-72-1	CHOXD or CMBST	7.9 and meet LAC 33:V.2233 standards <sup>8</sup>

D018 <sup>9</sup>	Wastes that are TC for Benzene based on the TCLP in SW846 Method 1311 and that are managed in non-CWA/non-CWA equivalent/non-Class I SDWA systems only.	Benzene	71-43-2	0.14 and meet LAC 33:V.2233 standards <sup>8</sup>	10 and meet LAC 33:V.2233 standards <sup>8</sup>
D019 <sup>9</sup>	Wastes that are TC for Carbon tetrachloride based on the TCLP in SW846 Method 1311.	Carbon tetrachloride	56-23-5	0.057 and meet LAC 33:V.2233 standards <sup>8</sup>	6.0 and meet LAC 33:V.2233 standards <sup>8</sup>
D020 <sup>9</sup>	Wastes that are TC for Chlordane based on the TCLP in SW846 Method 1311.	Chlordane (alpha and gamma isomers)	57-74-9	0.0033 and meet LAC 33:V.2233 standards <sup>8</sup>	0.26 and meet LAC 33:V.2233 standards <sup>8</sup>
D021 <sup>9</sup>	Wastes that are TC for Chlorobenzene based on the TCLP in SW846 Method 1311 .	Chlorobenzene	108-90-7	0.057 and meet LAC 33:V.2233 standards <sup>8</sup>	6.0 and meet LAC 33:V.2233 standards <sup>8</sup>
D022 <sup>9</sup>	Wastes that are TC for Chloroform based on the TCLP in SW846 Method 1311.	Chloroform	67-66-3	0.046 and meet LAC 33:V.2233 standards <sup>8</sup>	6.0 and meet LAC 33:V.2233 standards <sup>8</sup>
D023 <sup>9</sup>	Wastes that are TC for o-Cresol based on the TCLP in SW846 Method 1311.	o-Cresol	95-48-7	0.11 and meet LAC 33:V.2233 standards <sup>8</sup>	5.6 and meet LAC 33:V.2233 standards <sup>8</sup>
D024 <sup>9</sup>	Wastes that are TC for m-Cresol based on the TCLP in SW846 Method 1311.	m-Cresol (difficult to distinguish from p-cresol)	108-39-4	0.77 and meet LAC 33:V.2233 standards <sup>8</sup>	5.6 and meet LAC 33:V.2233 standards <sup>8</sup>
D025 <sup>9</sup>	Wastes that are TC for p-Cresol based on the TCLP in SW846 Method 1311.	p-Cresol (difficult to distinguish from m-cresol)	106-44-5	0.77 and meet LAC 33:V.2233 standards <sup>8</sup>	5.6 and meet LAC 33:V.2233 standards <sup>8</sup>
D026 <sup>9</sup>	Wastes that are TC for Cresols (Total) based on the TCLP in SW846 Method 1311.	Cresol-mixed isomers (Cresylic acid) (sum of o-, m-, and p-cresol concentrations)	1319-77-3	0.88 and meet LAC 33:V.2233 standards <sup>8</sup>	11.2 and meet LAC 33:V.2233 standards <sup>8</sup>
D027 <sup>9</sup>	Wastes that are TC for p-Dichlorobenzene based on the TCLP in SW846 Method 1311.	p-Dichlorobenzene (1,4-Dichlorobenzene)	106-46-7	0.090 and meet LAC 33:V.2233 standards <sup>8</sup>	6.0 and meet LAC 33:V.2233 standards <sup>8</sup>
D028 <sup>9</sup>	Wastes that are TC for 1,2-Dichloroethane based on the TCLP in SW846 Method 1311.	1,2-Dichloroethane	107-06-2	0.21 and meet LAC 33:V.2233 standards <sup>8</sup>	6.0 and meet LAC 33:V.2233 standards <sup>8</sup>
D029 <sup>9</sup>	Wastes that are TC for 1,1-Dichloroethylene based on the TCLP in SW846 Method 1311.	1,1-Dichloroethylene	75-35-4	0.025 and meet LAC 33:V.2233 standards <sup>8</sup>	6.0 and meet LAC 33:V.2233 standards <sup>8</sup>
D030 <sup>9</sup>	Wastes that are TC for 2,4-Dinitrotoluene based on the TCLP in SW846 Method 1311.	2,4-Dinitrotoluene	121-14-2	0.32 and meet LAC 33:V.2233 standards <sup>8</sup>	140 and meet LAC 33:V.2233 standards <sup>8</sup>

D031 <sup>9</sup>	Wastes that are TC for Heptachlor based on the TCLP in SW846 Method 1311.	Heptachlor	76-44-8	0.0012 and meet LAC 33:V.2233 standards <sup>8</sup>	0.066 and meet LAC 33:V.2233 standards <sup>8</sup>
		Heptachlor epoxide	1024-57-3	0.016 and meet LAC 33:V.2233 standards <sup>8</sup>	0.066 and meet LAC 33:V.2233 standards <sup>8</sup>
D032 <sup>9</sup>	Wastes that are TC for Hexachlorobenzene based on the TCLP in SW846 Method 1311.	Hexachlorobenzene	118-74-1	0.055 and meet LAC 33:V.2233 standards <sup>8</sup>	10 and meet LAC 33:V.2233 standards <sup>8</sup>
D033 <sup>9</sup>	Wastes that are TC for Hexachlorobutadiene based on the TCLP in SW846 Method 1311.	Hexachlorobutadiene	87-68-3	0.055 and meet LAC 33:V.2233 standards <sup>8</sup>	5.6 and meet LAC 33:V.2233 standards <sup>8</sup>
D034 <sup>9</sup>	Wastes that are TC for Hexachloroethane based on the TCLP in SW846 Method 1311.	Hexachloroethane	67-72-1	0.055 and meet LAC 33:V.2233 standards <sup>8</sup>	30 and meet LAC 33:V.2233 standards <sup>8</sup>
D035 <sup>9</sup>	Wastes that are TC for Methyl ethyl ketone based on the TCLP in SW846 Method 1311.	Methyl ethyl ketone	78-93-3	0.28 and meet LAC 33:V.2233 standards <sup>8</sup>	36 and meet LAC 33:V.2233 standards <sup>8</sup>
D036 <sup>9</sup>	Wastes that are TC for Nitrobenzene based on the TCLP in SW846 Method 1311.	Nitrobenzene	98-95-3	0.068 and meet LAC 33:V.2233 standards <sup>8</sup>	14 and meet LAC 33:V.2233 standards <sup>8</sup>
D037 <sup>9</sup>	Wastes that are TC for Pentachlorophenol based on the TCLP in SW846 Method 1311.	Pentachlorophenol	87-86-5	0.089 and meet LAC 33:V.2233 standards <sup>8</sup>	7.4 and meet LAC 33:V.2233 standards <sup>8</sup>
D038 <sup>9</sup>	Wastes that are TC for Pyridine based on the TCLP in SW846 Method 1311.	Pyridine	110-86-1	0.014 and meet LAC 33:V.2233 standards <sup>8</sup>	16 and meet LAC 33:V.2233 standards <sup>8</sup>
D039 <sup>9</sup>	Wastes that are TC for Tetrachloroethylene based on the TCLP in SW846 Method 1311.	Tetrachloroethylene	127-18-4	0.056 and meet LAC 33:V.2233 standards <sup>8</sup>	6.0 and meet LAC 33:V.2233 standards <sup>8</sup>
D040 <sup>9</sup>	Wastes that are TC for Trichloroethylene based on the TCLP in SW846 Method 1311.	Trichloroethylene	79-01-6	0.054 and meet LAC 33:V.2233 standards <sup>8</sup>	6.0 and meet LAC 33:V.2233 standards <sup>8</sup>
D041 <sup>9</sup>	Wastes that are TC for 2,4,5-Trichlorophenol based on the TCLP in SW846 Method 1311.	2,4,5-Trichlorophenol	95-95-4	0.18 and meet LAC 33:V.2233 standards <sup>8</sup>	7.4 and meet LAC 33:V.2233 standards <sup>8</sup>
D042 <sup>9</sup>	Wastes that are TC for 2,4,6-Trichlorophenol based on the TCLP in SW846 Method 1311.	2,4,6-Trichlorophenol	88-06-2	0.035 and meet LAC 33:V.2233 standards <sup>8</sup>	7.4 and meet LAC 33:V.2233 standards <sup>8</sup>
D043 <sup>9</sup>	Wastes that are TC for Vinyl chloride based on the TCLP in SW846 Method 1311.	Vinyl chloride	75-01-4	0.27 and meet LAC 33:V.2233 standards <sup>8</sup>	6.0 and meet LAC 33:V.2233 standards <sup>8</sup>
*** [See Prior Text in F001 - K087]					

K088	Spent potliners from primary aluminum reduction.	Acenaphthene	83-32-9	0.059	3.4
		Anthracene	120-12-7	0.059	3.4
		Benz(a)anthracene	56-55-3	0.059	3.4
		Benzo(a)pyrene	50-32-8	0.061	3.4
		Benzo(b)fluoranthene	205-99-2	0.11	6.8
		Benzo(k)fluoranthene	207-08-9	0.11	6.8
		Benzo(g,h,i)perylene	191-24-2	0.0055	1.8
		Chrysene	218-01-9	0.059	3.4
		Dibenz(a,h)anthracene	53-70-3	0.055	8.2
		Fluoranthene	206-44-0	0.068	3.4
		Indeno (1,2,3-c,d)pyrene	193-39-5	0.0055	3.4
		Phenanthrene	85-01-8	0.059	5.6
		Pyrene	129-00-0	0.067	8.2
		Antimony	7440-36-0	1.9	2.1 mg/l TCLP
		Arsenic	7440-38-2	1.4	5.0 mg/l TCLP
		Barium	7440-39-3	1.2	7.6 mg/l TCLP
		Beryllium	7440-41-7	0.82	0.014 mg/l TCLP
		Cadmium	7440-43-9	0.69	0.19 mg/l TCLP
		Chromium (Total)	7440-47-3	2.77	0.86 mg/l TCLP
		Lead	7439-92-1	0.69	0.37 mg/l TCLP
		Mercury	7439-97-6	0.15	0.025 mg/l TCLP
		Nickel	7440-02-0	3.98	5.0 mg/l TCLP
		Selenium	7782-49-2	0.82	0.16 mg/l TCLP
		Silver	7440-22-4	0.43	0.30 mg/l TCLP
		Cyanide (Total) <sup>7</sup>	57-12-5	1.2	590
		Cyanide (Amenable) <sup>7</sup>	57-12-5	0.86	30
Fluoride	16984-48-8	35	48 mg/l TCLP		
* * *					
[See Prior Text in K093 -K151]					

K156	Organic waste (including heavy ends, still bottoms, light ends, spent solvents, filtrates, and decantates) from the production of carbamates and carbamoyl oximes. <sup>10</sup>	Acetonitrile	75-05-8	5.6	38
		Acetophenone	96-86-2	0.010	9.7
		Aniline	62-53-3	0.81	14
		Benomyl	17804-35-2	0.056	1.4
		Benzene	71-43-2	0.14	10
		Carbaryl	63-25-2	0.006	0.14
		Carbenzadim	10605-21-7	0.056	1.4
		Carbofuran	1563-66-2	0.006	0.14
		Carbosulfan	55285-14-8	0.028	1.4
		Chlorobenzene	108-90-7	0.057	6.0
		Chloroform	67-66-3	0.046	6.0
		o-Dichlorobenzene	95-50-1	0.088	6.0
		Methomyl	16752-77	0.028	0.14
		Methylene chloride	75-09-2	0.089	30
		Methyl ethyl ketone	78-93-3	0.28	36
		Naphthalene	91-20-3	0.059	5.6
		Phenol	108-95-2	0.039	6.2
		Pyridine	110-86-1	0.014	16
Toluene	108-88-3	0.080	10		
Triethylamine	121-44-8	0.081	1.5		
K157	Wastewaters (including scrubber waters, condenser waters, washwaters, and separation waters) from the production of carbamates and carbamoyl oximes. <sup>10</sup>	Carbon tetrachloride	56-23-5	0.057	6.0
		Chloroform	67-66-3	0.046	6.0
		Chloromethane	74-87-3	0.19	30
		Methomyl	16752-77-5	0.028	0.14
		Methylene chloride	75-09-2	0.089	30
		Methyl ethyl ketone	78-93-3	0.28	36
		o-Phenylenediamine	95-54-5	0.056	5.6
		Pyridine	110-86-1	0.014	16
Triethylamine	121-44-8	0.081	1.5		

K158	Bag house dusts and filter/separation solids from the production of carbamates and carbamoyl oximes. <sup>10</sup>	Benomyl	17804- 35-2	0.056	14		
		Benzene	71-43-2	0.14	10		
		Carbenzadim	10605-21-7	0.056	1.4		
		Carbofuran	1563-66-2	0.006	0.14		
		Carbosulfan	55285-14-8	0.028	1.4		
		Chloroform	67-66-3	0.046	6.0		
		Methylene chloride	75-09-2	0.089	30		
K159	Organics from the treatment of thiocarbamate wastes. <sup>10</sup>	Phenol	108-95-2	0.039	6.2		
		Benzene	71-43-2	0.14	10		
		Butylate	2008-41-5	0.042	1.4		
		EPTC (Eptam)	759-94-4	0.042	1.4		
		Molinate	2212-67-1	0.042	1.4		
		Pebulate	1114-71-2	0.042	1.4		
K161	Purification solids (including filtration, evaporation, and centrifugation solids), baghouse dust, and floor sweepings from the production of dithiocarbamate acids and their salts. <sup>10</sup>	Vernolate	1929-77-7	0.042	1.4		
		Antimony	7440-36-0	1.9	2.1 mg/l TCLP		
		Arsenic	7440-38-2	1.9	5.0 mg/l TCLP		
		Carbon disulfide	75-15-0	3.8	4.8 mg/l TCLP		
		Dithiocarbamates (total)	NA	0.028	28		
		Lead	7439-92-1	0.69	0.37 mg/l TCLP		
		Nickel	7440-02-0	3.98	5.0 mg/l TCLP		
		Selenium	7782-49-2	0.82	0.16 mg/l TCLP		
		* * *					
		[See Prior Text in P001 - P123]					
		P127	Carbofuran <sup>10</sup>	Carbofuran	1563-66-2	0.006	0.14
		P128	Mexacarbate <sup>10</sup>	Mexacarbate	315-18-4	0.056	1.4
P185	Tirpate <sup>10</sup>	Tirpate	26419-73-8	0.056	0.28		
P188	Physostigmine salicylate <sup>10</sup>	Physostigmine salicylate	57-64-7	0.056	1.4		
P189	Carbosulfan <sup>10</sup>	Carbosulfan	55285-14-8	0.028	1.4		
P190	Metolcarb <sup>10</sup>	Metolcarb	1129-41-5	0.056	1.4		
P191	Dimetilan <sup>10</sup>	Dimelitan	644-64-4	0.056	1.4		
P192	Isolan <sup>10</sup>	Isolan	119-38-0	0.056	1.4		

P194	Oxamyl <sup>10</sup>	Oxamyl	23135-22-0	0.056	0.28
P196	Manganese dimethyldithiocarbamate <sup>10</sup>	Dithiocarbamates (total)	NA	0.028	28
P197	Formparanate <sup>10</sup>	Formparanate	17702-57-7	0.056	1.4
P198	Formetanate hydrochloride <sup>10</sup>	Formetanate hydrochloride	23422-53-9	0.056	1.4
P199	Methiocarb <sup>10</sup>	Methiocarb	2032-65-7	0.056	1.4
P201	Promecarb <sup>10</sup>	Promecarb	2631-37-0	0.056	1.4
P202	m-Cumenyl methylcarbamate <sup>10</sup>	m-Cumenyl methylcarbamate	64-00-6	0.056	1.4
P203	Aldicarb sulfone <sup>10</sup>	Aldicarb sulfone	1646-88-4	0.056	0.28
P204	Physostigmine <sup>10</sup>	Physostigmine	57-47-6	0.056	1.4
P205	Ziram <sup>10</sup>	Dithiocarbamates (total)	NA	0.028	28
*** [See Prior Text in U001 - U249]					
U271	Benomyl <sup>10</sup>	Benomyl	17804-35-2	0.056	1.4
U278	Bendiocarb <sup>10</sup>	Bendiocarb	22781-23-8	0.056	1.4
U279	Carbaryl <sup>10</sup>	Carbaryl	63-25-2	0.006	0.14
U280	Barban <sup>10</sup>	Barban	101-27-9	0.056	1.4
*** [See Prior Text in U328 - U359]					
U364	Bendiocarb phenol <sup>10</sup>	Bendiocarb phenol	22961-82-6	0.056	1.4
U367	Carbofuran phenol <sup>10</sup>	Carbofuran phenol	1563-38-8	0.056	1.4
U372	Carbendazim <sup>10</sup>	Carbendazim	10605-21-7	0.056	1.4
U373	Propham <sup>10</sup>	Propham	122-42-9	0.056	1.4
U387	Prosulfocarb <sup>10</sup>	Prosulfocarb	52888-80-9	0.042	1.4
U389	Triallate <sup>10</sup>	Triallate	2303-17-5	0.042	1.4
U394	A2213 <sup>10</sup>	A2213	30558-43-1	0.042	1.4
U395	Diethylene glycol, dicarbamate <sup>10</sup>	Diethylene glycol, dicarbamate	5952-26-1	0.056	1.4
U404	Triethylamine <sup>10</sup>	Triethylamine	101-44-8	0.081	1.5
U409	Thiophanate-methyl <sup>10</sup>	Thiophanate-methyl	23564-05-8	0.056	1.4
U410	Thiodicarb <sup>10</sup>	Thiodicarb	59669-26-0	0.019	1.4
U411	Propoxur <sup>10</sup>	Propoxur	114-26-1	0.056	1.4

\*\*\*

[See Prior Text in Note 1 - Note 7]

<sup>8</sup> These wastes, when rendered nonhazardous and then subsequently managed in CWA or CWA-equivalent systems, are not subject to treatment standards. (See LAC 33:V.2201.G.4 and G.5.)

<sup>9</sup> These wastes, when rendered nonhazardous and then subsequently injected in a Class I SDWA well, are not subject to treatment standards. (See LAC 33:V.Chapter 22.Subchapter B.)

<sup>10</sup> Between August 26, 1996, and August 26, 1997, the treatment standards for this waste were satisfied in 40 CFR 268.40(g) by either meeting the

constituent concentrations in this table or by treating the waste by the specified technologies: combustion, as defined by the technology code CMBST at LAC 33:V.Chapter 22.Table 3, for nonwastewaters; and biodegradation, as defined by the technology code BIODG, carbon adsorption, as defined by the technology code CARBN, chemical oxidation, as defined by the technology code CHOXD, or combustion, as defined as technology code CMBST at LAC 33:V.Chapter 22,Table 3, for wastewaters. *Note:* NA means not applicable.

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[See Prior Text in Table 3 - Table 6]

Table 7. Universal Treatment Standards			
Regulated Constituent-Common Name	CAS <sup>1</sup> Number	Wastewater Standard Concentration in mg/l <sup>2</sup>	Nonwastewater Standard Concentration in mg/kg <sup>3</sup> unless noted as "mg/l TCLP"
A2213 <sup>6</sup>	30558-43-1	0.042	1.4
*** [See Prior Text in Acenaphthylene - Acrylonitrile]			
Aldicarb sulfone <sup>6</sup>	1646-88-4	0.056	0.28
*** [See Prior Text in Aldrin - gamma - BHC]			
Barban <sup>6</sup>	101-27-9	0.056	1.4
Bendiocarb <sup>6</sup>	22781-23-3	0.056	1.4
Bendiocarb phenol <sup>6</sup>	22961-82-6	0.056	1.4
Benomyl <sup>6</sup>	17804-35-2	0.056	1.4
*** [See Prior Text in Benzene -n-Butyl alcohol]			
Butylate <sup>6</sup>	2008-41-5	0.042	1.4
*** [See Prior Text in Butyl benzyl phthalate - 2-sec-Butyl-4,6-dinitrophenol/Dinoseb]			
Carbaryl <sup>6</sup>	63-25-2	0.006	0.14
Carbenzadim <sup>6</sup>	10605-21-7	0.056	1.4
Carbofuran <sup>6</sup>	1563-66-2	0.006	0.14
Carbofuran phenol <sup>6</sup>	1563-38-8	0.056	1.4
*** [See Prior Text in Carbon disulfide - Carbon tetrachloride]			
Carbosulfan <sup>6</sup>	55285-14-8	0.028	1.4
*** [See Prior Text in Chlordane (alpha and gamma isomers) - p-Creosol]			
m-Cumenyl methylcarbamate <sup>6</sup>	64-00-6	0.056	1.4
*** [See Prior Text in Cyclohexanone -Diethyl phthalate]			
Diethylene glycol, dicarbamate <sup>6</sup>	5952-26-1	0.056	1.4
*** [See Prior Text in 2-4-Dimethyl phenol - Dimethyl phthalate]			
Dimetilan <sup>6</sup>	644-64-4	0.056	1.4
*** [See Prior Text in Di-n-butyl phthalate - Disulfoton]			
Dithiocarbamates (total) <sup>6</sup>	137-30-4	0.028	28
*** [See Prior Text in Endosulfan I - Flourene]			
Formetanate hydrochloride <sup>6</sup>	23422-53-9	0.056	1.4
Formparanate <sup>6</sup>	17702-57-7	0.056	1.4
*** [See Prior Text in Heptochlor - Isodrin]			
Isolan <sup>6</sup>	119-38-0	0.056	1.4

*** [See Prior Text in Isosafrole - Methapyrilene]			
Methiocarb <sup>6</sup>	2032-65-7	0.056	1.4
Methomyl <sup>6</sup>	16752-77-5	0.028	0.14
*** [See Prior Text in Methoxychlor - Methyl parathion]			
Metolcarb <sup>6</sup>	1129-41-5	0.056	1.4
Mexacarbate <sup>6</sup>	315-18-4	0.056	1.4
Molinate <sup>6</sup>	2212-67-1	0.042	1.4
*** [See Prior Text in Napthalene - N-Nitrosopyrrolidine]			
Oxamyl <sup>6</sup>	23135-22-0	0.056	0.28
*** [See Prior Text in Parathion - Total PCBs]			
Pebulate <sup>6</sup>	1114-71-2	0.042	1.4
*** [See Prior Text in Pentachlorobenzene - Phenol]			
o-Phenylenediamine <sup>6</sup>	95-54-5	0.056	5.6
*** [See Prior Text in Phorate - Phthalic anhydride]			
Physostigmine <sup>6</sup>	57-47-6	0.056	1.4
Physostigmine salicylate <sup>6</sup>	57-64-7	0.056	1.4
Promecarb <sup>6</sup>	2631-37-0	0.056	1.4
*** [See Prior Text in Pronamide]			
Propham <sup>6</sup>	112-42-9	0.056	1.4
Propoxur <sup>6</sup>	114-26-1	0.056	1.4
Prosulfocarb <sup>6</sup>	52888-80-9	0.042	1.4
*** [See Prior Text in Pyrene - 2,3,4,6-Tetrachlorophenol]			
Thiodicarb <sup>6</sup>	59669-26-0	0.019	1.4
Thiophanate-methyl <sup>6</sup>	23564-05-8	0.056	1.4
Tirpate <sup>6</sup>	26419-73-8	0.056	0.28
*** [See Prior Text in Toluene - Toxaphene]			
Triallate <sup>6</sup>	2303-17-5	0.042	1.4
*** [See Prior Text in Bromoform (Tribromomethane) - Cyanides (Amenable)]			
Fluoride <sup>5</sup>	16964-48-8	35	NA
*** [See Prior Text in Lead - Thallium]			
Vanadium <sup>5</sup>	7440-62-2	4.3	0.23 mg/l TCLP
*** [See Prior Text in Zinc]			

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[See Prior Text Note 1 - Note 4]

<sup>5</sup> These constituents are not "underlying hazardous constituents" in characteristic wastes, according to the definition at LAC 33:V.2203.A.

<sup>6</sup> Between August 26, 1996 and August 26, 1997, these constituents were not "underlying hazardous constituents" (under 40 CFR 268.2(i)) as defined in LAC 33:V.2203.A.

Note: NA means not applicable

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[See Prior Text in Table 8 - Table 11.Certification Statements A-G]

Table 12. Metal-Bearing Wastes Prohibited From Dilution in a Combustion Unit According to LAC 33:V.2207.C <sup>1</sup>	
Waste code	Waste description
D004	Toxicity characteristic for arsenic.
D005	Toxicity characteristic for barium.
D006	Toxicity characteristic for cadmium.
D007	Toxicity characteristic for chromium.
D008	Toxicity characteristic for lead.
D009	Toxicity characteristic for mercury.
D010	Toxicity characteristic for selenium.
D011	Toxicity characteristic for silver.
F006	Wastewater treatment sludges from electroplating operations except from the following processes: (1) sulfuric acid anodizing of aluminum; (2) tin plating carbon steel; (3) zinc plating (segregated basis) on carbon steel; (4) aluminum or zincplating on carbon steel; (5) cleaning/stripping associated with tin, zinc, and aluminum plating on carbon steel; and (6) chemical etching and milling of aluminum.
F007	Spent cyanide plating bath solutions from electroplating operations.
F008	Plating bath residues from the bottom of plating baths from electroplating operations where cyanides are used in the process.
F009	Spent stripping and cleaning bath solutions from electroplating operations where cyanides are used in the process.
F010	Quenching bath residues from oil baths from metal treating operations where cyanides are used in the process.
F011	Spent cyanide solutions from salt bath pot cleaning from metal heat treating operations.
F012	Quenching waste water treatment sludges from metal heat treating operations where cyanides are used in the process.
F019	Wastewater treatment sludges from the chemical conversion coating of aluminum except from zirconium phosphating in aluminum car washing when such phosphating is an exclusive conversion coating process.
K002	Wastewater treatment sludge from the production of chrome yellow and orange pigments.
K003	Wastewater treatment sludge from the production of molybdate orange pigments.
K004	Wastewater treatment sludge from the production of zinc yellow pigments.
K005	Wastewater treatment sludge from the production of chrome green pigments.
K006	Wastewater treatment sludge from the production of chrome oxide green pigments (anhydrous and hydrated).
K007	Wastewater treatment sludge from the production of iron blue pigments.
K008	Oven residue from the production of chrome oxide green pigments.

K061	Emission control dust/sludge from the primary production of steel in electric furnaces.
K069	Emission control dust/sludge from secondary lead smelting.
K071	Brine purification muds from the mercury cell processes in chlorine production, where separately prepurified brine is not used.
K100	Waste leaching solution from acid leaching of emission control dust/sludge from secondary lead smelting.
K106	Sludges from the mercury cell processes for making chlorine.
P010	Arsenic acid H <sub>3</sub> AsO <sub>4</sub> .
P011	Arsenic oxide As <sub>2</sub> O <sub>5</sub> .
P012	Arsenic trioxide.
P013	Barium cyanide.
P015	Beryllium.
P029	Copper cyanide Cu(CN).
P074	Nickel cyanide Ni(CN) <sub>2</sub> .
P087	Osmium tetroxide.
P099	Potassium silver cyanide.
P104	Silver cyanide.
P113	Thallic oxide.
P114	Thallium (I) selenite.
P115	Thallium (I) sulfate.
P119	Ammonium vanadate.
P120	Vanadium oxide V <sub>2</sub> O <sub>5</sub> .
P121	Zinc cyanide.
U032	Calcium chromate.
U145	Lead phosphate.
U151	Mercury.
U204	Selenious acid.
U205	Selenium disulfide.
U216	Thallium (I) chloride.
U217	Thallium (I) nitrate.
<sup>1</sup> A combustion unit is defined as any thermal technology subject to LAC 33:V.Chapter 30, Chapter 31, and/or Chapter 43.Subchapter N.	

**Chapter 25. Landfills**  
**§2515. Special Requirements for Bulk and Containerized Liquids**

\* \* \*

[See Prior Text in A-F.2]

a. The sorbent material is determined to be nonbiodegradable under ASTM Method G21-70 (1984a)-Standard Practice for Determining Resistance of Synthetic Polymer Materials to Fungi.

b. The sorbent material is determined to be nonbiodegradable under ASTM Method G22-76

(1984b)-Standard Practice for Determining Resistance of Plastics to Bacteria.

c. The sorbent material is determined to be nonbiodegradable under OECD test 301B: [CO<sub>2</sub> Evolution (Modified Sturm Test)].

d. Effective March 20, 1998, the placement of any liquid which is not a hazardous waste in a landfill is prohibited unless the owner or operator of such landfill demonstrates to the administrative authority, or the administrative authority determines, that:

i. the only reasonably available alternative to the placement in such landfill is placement in a landfill or unlined surface impoundment, whether or not permitted or operating under interim status, which contains, or may reasonably be anticipated to contain, hazardous waste; and

ii. placement in such owner's or operator's landfill will not present a risk of contamination of any underground source of drinking water (as that term is defined in LAC 33:V.109.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, in LR 10:200 (March 1984), amended LR 16:220 (March 1990), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 22:821 (September 1996), amended by the Office of the Secretary, LR 23:299 (March 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

**Chapter 31. Incinerators**

**§3105. Applicability**

\* \* \*

[See Prior Text in A-E]

Table 1. Hazardous Constituents			
Common Name	Chemical Abstracts Name	Chemical Abstracts Number	Hazardous Waste Number
* * * [See Prior Text in Acetonitrile - Beryllium compounds, N.O.S.¹]			
Bis (pentamethylene)-thiuram tetrasulfide	Piperidine, 1,1'-(tetrathiodicarbonothioyl)-bis-	120-54-7	U400
* * * [See Prior Text in Bromoacetone - Butyl benzyl phthalate]			
Butylate	Carbamothioic acid, bis (2-methylpropyl)-, S-ethyl ester	2008-41-5	U392
* * * [See Prior Text in Cacodylic acid - Copper Cyanide]			
Copper dimethyl-dithiocarbamate	Copper, bis(dimethylcarbamodithioato-S,S')-,	137-29-1	U393
* * * [See Prior Text in Creosote - Cycasin]			
Common Name	Chemical Abstracts Name	Chemical Abstracts Number	Hazardous Waste Number
Cycloate	Carbamothioic acid, cyclohexylethyl-, S-ethyl ester	1134-23-2	U386
* * * [See Prior Text in 2-Cyclohexyl-4,6- dinitrophenol - Daunomycin]			
Dazomet	2H-1,3,5-thiadiazine-2-thione, tetrahydro-3,5-dimethyl	533-74-4	U366
* * * [See Prior Text in DDD - Di-n-propylnitrosamine]			
Disulfiram	Thioperoxydicarbonic diamide, tetraethyl	97-77-8	U403
* * * [See Prior Text in Disulfoton - Epinephrine]			
EPTC	Carbamothioic acid, dipropyl-, S-ethyl ester	759-94-4	U390
* * * [See Prior Text in Ethyl carbamate (urethane) - Ethyl methanesulfonate]			

* * *			
[See Prior Text in Acetonitrile - Beryllium compounds, N.O.S.¹]			
Bis (pentamethylene)-thiuram tetrasulfide	Piperidine, 1,1'-(tetrathiodicarbonothioyl)-bis-	120-54-7	U400
* * *			
[See Prior Text in Bromoacetone - Butyl benzyl phthalate]			
Butylate	Carbamothioic acid, bis (2-methylpropyl)-, S-ethyl ester	2008-41-5	U392
* * *			
[See Prior Text in Cacodylic acid - Copper Cyanide]			
Copper dimethyl-dithiocarbamate	Copper, bis(dimethylcarbamodithioato-S,S')-,	137-29-1	U393
* * *			
[See Prior Text in Creosote - Cycasin]			
Ethyl Ziram	Zinc, bis(diethylcarbamodithioato-S,S')-	14324-55-1	U407
* * *			
[See Prior Text in Famphur]			
Ferbam	Iron, tris(dimethylcarbamodithioato-S,S')-,	14484-64-1	U396
* * *			
[See Prior Text in Fluoranthene - Hydrogen sulfide]			
3-Iodo-2-propynyl n-butylcarbamate	Carbamic acid, butyl-, 3-iodo-2-propynyl ester	55406-53-6	U375
* * *			
[See Prior Text in Indeno[1,2,3-cd]pyrene - Mercury fulminate]			
<b>Common Name</b>	<b>Chemical Abstracts Name</b>	<b>Chemical Abstracts Number</b>	<b>Hazardous Waste Number</b>
Metam Sodium	Carbamodithioic acid, methyl-, monosodium salt	137-42-8	U384
* * *			
[See Prior Text in Methacrylonitrile - MNNG]			
Molinate	1H-Azepine-1-carbothioic acid, hexahydro-, S-ethyl ester	2212-67-1	U365
* * *			
[See Prior Text in Mustard gas - Parathion]			
Pebulate	Carbamothioic acid, butylethyl-, S-propyl ester	1114-71-2	U391
* * *			
[See Prior Text in Pentachlorobenzene - Potassium cyanide]			
Potassium dimethyldithiocarbamate	Carbamodithioic acid, dimethyl, potassium salt	128-03-0	U383
Potassium hydroxymethyl-n-methyl- dithiocarbamate	Carbamodithioic acid, (hydroxymethyl)methyl-, monopotassium salt	51026-28-9	U378
Potassium n-methyldithiocarbamate	Carbamodithioic acid, methyl-monopotassium salt	137-41-7	U377
* * *			
[See Prior Text in Potassium pentachlorophenate - Selenium sulfide]			
Selenium, tetrakis (dimethyl-dithiocarbamate	Carbamodithioic acid, dimethyl-, tetraanhydrosulfide with orthothioselenious acid	144-34-3	U376
<b>Common Name</b>	<b>Chemical Abstracts Name</b>	<b>Chemical Abstracts Number</b>	<b>Hazardous Waste Number</b>

* * *			
[See Prior Text in Acetonitrile - Beryllium compounds, N.O.S. <sup>1</sup> ]			
Bis (pentamethylene)-thiuram tetrasulfide	Piperidine, 1,1'-(tetrathiodicarbonothioyl)-bis-	120-54-7	U400
* * *			
[See Prior Text in Bromoacetone - Butyl benzyl phthalate]			
Butylate	Carbamothioic acid, bis (2-methylpropyl)-, S-ethyl ester	2008-41-5	U392
* * *			
[See Prior Text in Cacodylic acid - Copper Cyanide]			
Copper dimethyl-dithiocarbamate	Copper, bis(dimethylcarbamodithioato-S,S')-,	137-29-1	U393
* * *			
[See Prior Text in Creosote - Cycasin]			
* * *			
[See Prior Text in Selenourea - Sodium cyanide]			
Sodium dibutyl-dithiocarbamate	Carbamodithioic acid, dibutyl, sodium salt	136-30-1	U379
Sodium diethyldithiocarbamate	Carbamodithioic acid, diethyl-, sodium salt	148-18-5	U381
Sodium dimethyldithiocarbamate	Carbamodithioic acid, dimethyl-, sodium salt	128-04-1	U382
* * *			
[See Prior Text in Sodium pentachlorophenate - Strychnine salts]			
Sulfallate	Carbamodithioic acid, diethyl-, 2-chloro-2-propenyl ester	95-06-7	U277
* * *			
[See Prior Text in TCDD]			
Tetrabutylthiuram disulfide	Thioperoxydicarbonic diamide, tetrabutyl	1634-02-2	U402
Tetrabutylthiuram monosulfide	Bis (dimethylthiocarbamoyl) sulfide	97-74-5	U401
* * *			
[See Prior Text in 1,2,4,5-Tetrachlorobenzene - Vanadium pentoxide]			
Vernolate	Carbamothioic acid, dipropyl-, S-propyl ester	1929-77-7	U385
* * *			
[See Prior Text in Vinyl chloride - Zinc phosphide]			
<b>Common Name</b>	<b>Chemical Abstracts Name</b>	<b>Chemical Abstracts Number</b>	<b>Hazardous Waste Number</b>
Ziram	Zinc, bis(dimethylcarbamodithioato-S,S')-(T-4)-	137-30-4	P205

<sup>1</sup> The abbreviation N.O.S. (not otherwise specified) signifies those members of the general class not specifically listed by name in this table.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 11:1139 (December 1985), LR 13:433 (August 1987), LR 14:424 (July 1988), LR 15:737 (September 1989), LR 16:399 (May 1990), LR 18:1256 (November 1992), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 21:944 (September 1995), LR 22:835 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

### §3115. Incinerator Permits for New or Modified Facilities

\* \* \*

[See Prior Text in A-B.11.d]

12. The administrative authority must send a notice to all persons on the facility mailing list, as set forth in LAC 33:V.717.A.5, and to the appropriate units of state and local government, as set forth in LAC 33:V.717.A.2, announcing the scheduled commencement and completion dates for the trial burn. The applicant may not commence the trial burn until after the administrative authority has issued such notice.

a. This notice must be mailed within a reasonable time period before the scheduled trial burn. An additional notice is not required if the trial burn is delayed due to circumstances beyond the control of the facility or the permitting agency.

b. This notice must contain:

- i. the name and telephone number of the applicant's contact person;
- ii. the name and telephone number of the permitting agency's contact office;
- iii. the location where the approved trial burn plan and any supporting documents can be reviewed and copied; and
- iv. an expected time period for commencement and completion of the trial burn.

13. during, or immediately after, each approved trial burn the applicant must make the following determinations when a DRE trial burn is required under LAC 33:V.3009.A:

- a. a quantitative analysis of the trial POHCs in the waste feed;
- b. a quantitative analysis of the exhaust gas for the concentration and mass emissions of the trial POHCs, oxygen (O<sub>2</sub>) and hydrogen chloride (HCl);
- c. a quantitative analysis of the scrubber water (if any), ash residues, and other residues, for the purpose of estimating the fate of the trial POHCs;
- d. a computation of destruction and removal efficiency (DRE), in accordance with the DRE formula specified in LAC 33:V.3111;
- e. if the HCl emission rate exceeds 1.8 kilograms of HCl per hour (four pounds per hour), a computation of HCl removal efficiency in accordance with LAC 33:V.3111;
- f. a computation of particulate emissions, in accordance with LAC 33:V.3111;
- g. an identification of sources of fugitive emissions and their means of control;
- h. a measurement of average, maximum, and minimum temperatures and combustion gas velocity;
- i. a continuous measurement of carbon monoxide (CO) in the exhaust gas; and
- j. such other information as the administrative authority may specify as necessary to ensure that the trial burn will determine compliance with the performance standards in LAC 33:V.3111 and to establish the operating conditions required by LAC 33:V.3117 as necessary to meet that performance standard.

14. the applicant must submit to the administrative authority a certification that the trial burn has been carried out in accordance with the approved trial burn plan, and must submit the results of all the determinations required in Subsection B.13 of this Section. This submission shall be made within 90 days of completion of the trial burn, or later if approved by the administrative authority.

15. all data collected during any trial burn must be submitted to the administrative authority following the completion of the trial burn.

16. all submissions required by this Subsection must be certified on behalf of the applicant by the signature of a person authorized to sign a permit application or a report under LAC 33:V.507 and 509.

17. based on the results of the trial burn, the administrative authority shall set the operating requirements in the final permit according to LAC 33:V.3117. The permit modification shall proceed according to LAC 33:V.321.C.

\* \* \*

[See Prior Text in C-C.2]

D. For the purposes of determining feasibility of compliance with the performance standards of LAC 33:V.3111 and of determining adequate operating conditions under LAC 33:V.3117, the applicant for a permit for an existing hazardous waste incinerator must prepare and submit a trial burn plan and perform a trial burn in accordance with LAC 33:V.529.B and Subsection B, B.1-11, and 13-16 or, instead, submit other information as specified in LAC 33:V.529.C. The administrative authority must announce his or her intention to approve the trial burn plan in accordance with the timing and distribution requirements of Subsection B.12 of this Section. The contents of the notice must include: the name and telephone number of a contact person at the facility; the name and telephone number of a contact office at the permitting agency; the location where the trial burn plan and any supporting documents can be reviewed and copied; and a schedule of the activities that are required prior to permit issuance, including the anticipated time schedule for agency approval of the plan and the time period during which the trial burn would be conducted. Applicants submitting information under LAC 33:V.529.A are exempt from compliance with LAC 33:V.3111 and 3117 and, therefore, are exempt from the requirements to conduct a trial burn. Applicants who submit trial burn plans and receive approval before submission of a permit application must complete the trial burn and submit the results, specified in Subsection B.13 of this Section, with Part II of the permit application. If completion of this process conflicts with the date set for submission of the Part II application, the applicant must contact the administrative authority to establish a later date for submission of the Part II application or the trial burn results. Trial burn results must be submitted prior to issuance of a permit. When the applicant submits a trial burn plan with Part II of the permit application, the administrative authority will specify a time period prior to permit issuance in which the trial burn must be conducted and the results submitted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 16:614 (July 1990), LR 18:1256 (November 1992), LR 22:828 (September 1996), LR 22:835 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

### **Chapter 33. Groundwater Protection** **§3309. Concentration Limits**

A. The administrative authority will specify in the facility permit concentration limits in the groundwater for hazardous constituents established under LAC 33:V.3307. The concentration of a hazardous constituent:

1. must not exceed the background level of that constituent in the groundwater at the time that limit is specified in the permit; or

2. for any of the constituents listed in Table 1 of this Section, must not exceed the respective value given in that table if the background level of the constituent is below the value given; or

3. must not exceed an alternative limit established by the administrative authority under Subsection B of this Section.

\* \* \*

[See Prior Text in Table 1-Note 1]

B. The administrative authority may establish an alternate concentration limit for a hazardous constituent if he finds that the constituent will not pose a substantial present or potential hazard to human health or the environment as long as the alternate concentration limit is not exceeded. In establishing alternate concentration limits, the administrative authority will consider the following factors:

1. potential adverse effects on groundwater quality, considering:

a. the physical and chemical characteristics of the waste in the regulated unit, including its potential for migration;

b. the hydrogeological characteristics of the facility and surrounding land;

c. the quantity of groundwater and the direction of groundwater flow;

d. the proximity and withdrawal rates of groundwater users;

e. the current and future uses of groundwater in the area;

f. the existing quality of groundwater, including other sources of contamination and their cumulative impact on the groundwater quality;

g. the potential for health risks caused by human exposure to waste constituents;

h. the potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents;

i. the persistence and permanence of the potential adverse effects; and

2. potential adverse effects on hydraulically-connected surface water quality, considering:

a. the volume and physical and chemical characteristics of the waste in the regulated unit;

b. the hydrogeological characteristics of the facility and surrounding land;

c. the quantity and quality of groundwater and the direction of groundwater flow;

d. the patterns of rainfall in the region;

e. the proximity of the regulated unit to surface waters;

f. the current and future uses of surface waters in the area and any water quality standards established for those surface waters;

g. the existing quality of surface water, including other sources of contamination and the cumulative impact on surface water quality;

h. the potential for health risks caused by human exposure to waste constituents;

i. the potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents; and

j. the persistence and permanence of the potential adverse effects.

C. In making any determination under Subsection B of this Section about the use of groundwater in the area around the facility, the administrative authority will consider any identification of underground sources of drinking water and exempted aquifers identified in the permit application under LAC 33:V.Chapter 3.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:280 (April 1984), LR 10:496 (July 1984), LR 16:614 (July 1990), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

## **Chapter 38. Universal Wastes**

### **Subchapter B. Standards for Small Quantity Handlers of Universal Waste**

#### **§3835. Exports**

A small quantity handler of universal waste who sends universal waste to a foreign destination, other than to those OECD countries specified in LAC 33:V.1113.I.1.a (in which case the handler is subject to the requirements of LAC 33:V.Chapter 11.Subchapter B), must:

\* \* \*

[See Prior Text in A.1-3]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:573 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

### **Subchapter C. Standards for Large Quantity Handlers of Universal Waste**

#### **§3857. Exports**

A large quantity handler of universal waste who sends universal waste to a foreign destination other than to those OECD countries specified in LAC 33:V.1113.I.1.a (in which case the handler is subject to the requirements of LAC 33:V.Chapter 11.Subchapter B) must:

\* \* \*

[See Prior Text in A.1-3]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:577 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

### **Subchapter D. Standards for Universal Waste Transporters**

#### **§3871. Exports**

A universal waste transporter transporting a shipment of universal waste to a foreign destination other than to those OECD countries specified in LAC 33:V.1113.I.1.a (in which case the transporter is subject to the requirements of LAC 33:V.Chapter 11.Subchapter B) may not accept a

shipment if the transporter knows the shipment does not conform to the EPA Acknowledgment of Consent. In addition the transporter must ensure that:

\* \* \*

[See Prior Text in A.1-2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:578 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

#### **Subchapter F. Import Requirements**

##### **§3879. Imports**

Persons managing universal waste that is imported from a foreign country into the United States are subject to the applicable requirements of this Chapter, immediately after the waste enters the United States, as indicated in Subsections A-C of this Section.

\* \* \*

[See Prior Text in A-C]

D. Persons managing universal waste that is imported from an OECD country as specified in LAC 33:V.1113.I.1.a are subject to Subsections A-C of this Section, in addition to the requirements of LAC 33:V.Chapter 11.Subchapter B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:578 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

#### **Chapter 41. Recyclable Materials**

##### **§4105. Requirements for Recyclable Material**

Recyclable materials are subject to additional regulations as follows:

\* \* \*

[See Prior Text in A-E]

F. Hazardous waste that is exported to or imported from designated member countries of the Organization for Economic Cooperation and Development (OECD) (as defined in LAC 33:V.1113.I.1.a) for the purpose of recovery is subject to the requirements of LAC 33:V.Chapter 11.Subchapter B, if it is subject to either the manifesting requirements of LAC 33:V.Chapter 11 or to the universal waste management standards of LAC 33:V.Chapter 38.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 11:988 (October 1985), amended LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 16:219 (March 1990), LR 17:362 (April 1991), repromulgated LR 18:1256 (November 1992), amended LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 22:837 (September 1996), LR 23:579 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

##### **§4143. Recyclable Materials Utilized for Precious Metal Recovery**

\* \* \*

[See Prior Text in A-B.4]

5. generators are subject to the requirements of Subchapter B of this Chapter; and

6. precious metals exported to or imported from designated OECD member countries for recovery are subject to the requirements of LAC 33:V.Chapter 11.Subchapter B and LAC 33:V.4311. Precious metals exported to or imported from non-OECD countries for recovery are subject to the requirements of LAC 33:V.1113 and 1123.

\* \* \*

[See Prior Text in C-D]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 11:988 (October 1985), amended LR 11:1139 (December 1985), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

#### **Chapter 43. Interim Status**

##### **Subchapter A. General Facility Standards**

##### **§4311. Required Notices**

Interim status facilities must comply with LAC 33:V.1531.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

##### **Subchapter M. Landfills**

##### **§4507. Special Requirements for Bulk and Containerized Liquids**

\* \* \*

[See Prior Text in A-F.2.a]

b. The sorbent material is determined to be nonbiodegradable under ASTM Method G22-76 (1984b)-Standard Practice for Determining Resistance of Plastics to Bacteria; or

c. The sorbent material is determined to be nonbiodegradable under OECD test 301B: [CO<sub>2</sub> Evolution (Modified Sturm Test)].

\* \* \*

[See Prior Text in G-G.2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), LR 21:266 (March 1995), LR 22:829 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

#### **Chapter 49. Lists of Hazardous Wastes**

##### **§4901. Category I Hazardous Wastes**

\* \* \*

[See Prior Text in A-Table 3]

F. Commercial chemical products or manufacturing chemical intermediates or off-specification commercial chemical products referred to in LAC 33:V.4901.D.1-4 are identified as toxic wastes (T) unless otherwise designated and are subject to the small quantity generator exclusion defined in LAC 33:V.3903, 3913, and 3915.A and C. These wastes and their corresponding EPA Hazardous Waste Numbers are listed in Table 4. [Comment: For the convenience of the regulated community, the primary hazardous properties of these materials have been indicated by the letters T (Toxicity), R

(Reactivity), I (Ignitability), and C (Corrosivity). Absence of a letter indicates that the compound is listed only for toxicity.]

Table 4. Toxic Wastes		
EPA Hazardous Waste Number	Chemical Abstract Number	Hazardous Waste
*** [See Prior Text]		
U119	62-50-0	Ethyl methanesulfonate
U396	14484-64-1	Ferbam
U120	206-44-0	Fluoranthene
*** [See Prior Text]		
U182	123-63-7	Paraldehyde
U391	1114-71-2	Pebulate
U183	608-93-5	Pentachlorobenzene
*** [See Prior Text]		
U179	100-75-4	Piperidine, 1-nitroso-
U400	120-54-7	Piperidine, 1,1'-(tetrathiodicarbonothioyl)-bis-
U383	128-03-0	Potassium dimethyldithiocarbamate
U378	51026-28-9	Potassium n-hydroxymethyl-n-methyl-di-thiocarbamate
U377	137-41-7	Potassium n-methyldithiocarbamate
U192	23950-58-5	Pronamide
*** [See Prior Text]		
U205	7488-56-4	Selenium sulfide SeS <sub>2</sub> (R,T)
U376	144-34-3	Selenium, tetrakis(dimethyldithiocarbamate)
U015	115-02-6	L-Serine, diazoacetate (ester)
See F027	93-72-1	Silvex(2,4,5-TP)
U379	136-30-1	Sodium dibutyldithiocarbamate
U381	148-18-5	Sodium diethyldithiocarbamate
U382	128-04-1	Sodium dimethyldithiocarbamate
U206	18883-66-4	Streptozotocin
U277	95-06-7	Sulfallate
U103	77-78-1	Sulfuric acid, dimethyl ester
*** [See Prior Text]		

See F027	93-76-5	2,4,5-T
U402	1634-02-2	Tetrabutylthiuram disulfide
U207	95-94-3	1,2,4,5-Tetrachlorobenzene
*** [See Prior Text]		
U213	109-99-9	Tetrahydrofuran (I)
U401	97-74-5	Tetramethylthiuram monosulfide
U214	563-68-8	Thallium(I) acetate
*** [See Prior Text]		
U217	10102-45-1	Thallium(I) nitrate
U366	533-74-4	2H-1,3,5-Thiadiazine-2-thione, tetrahydro-3,5-dimethyl-
U218	62-55-5	Thioacetamide
*** [See Prior Text]		
U244	137-26-8	Thioperoxydicarbonic diamide [(H <sub>2</sub> N)C(S)] <sub>2</sub> S <sub>2</sub> , tetramethyl-
U402	1634-02-2	Thioperoxydicarbonic diamide, tetrabutyl
U403	97-77-8	Thioperoxydicarbonic diamide, tetraethyl
U219	62-56-6	Thiourea
*** [See Prior Text]		
U177	684-93-5	Urea, N-methyl-N-nitroso-
U385	1929-77-7	Vernolate
U043	75-01-4	Vinyl chloride
*** [See Prior Text]		
U200	50-55-5	Yohimban-16-carboxylic acid,11,17-dimethoxy-18-[(3,4,5-trimethoxybenzoyl)oxy]-, methyl ester,(3beta,16beta,17alpha,18beta,20alpha)-
U407	14324-55-1	Zinc, bis(diethylcarbamo-dithioato-S,S')-
U249	1314-84-7	Zinc phosphide Zn <sub>3</sub> P <sub>2</sub> , when present at concentrations of 10 percent or less

<sup>1</sup> CAS Number given for parent compound only.

\*\*\*

[See Prior Text in G]

Table 6 lists constituents that serve as a basis for listing hazardous waste.

**Table 6. Table of Constituents that Serve as a Basis for Listing Hazardous Waste**

\* \* \*

[See Prior Text in F001-K151]

EPA Hazardous Waste Number K156 benomyl carbaryl carbendazim carbofuran carbosulfan formaldehyde methylene chloride triethylamine
EPA Hazardous Waste Number K157 Carbon tetrachloride formaldehyde methyl chloride methylene chloride pyridine triethylamine
EPA Hazardous Waste Number K158 benomyl carbendazim carbofuran carbosulfan chloroform methylene chloride
EPA Hazardous Waste Number K159 benzene butylate EPTC molinate pebulate vernolate
EPA Hazardous Waste Number K161 antimony arsenic metam-sodium ziram

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2180 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:320 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 14:426 (July 1988), LR 14:790 (November 1988), LR 15:182 (March 1989), LR 16:47 (January 1990), LR 16:220 (March 1990), LR 16:614 (July 1990), LR 16:1057 (December 1990), LR 17:369 (April 1991), LR 17:478 (May 1991), LR 17:658 (July 1991), LR 18:723 (July 1992), LR 18:1256 (November 1992), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:829 (September 1996), LR 22:840 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:1522 (November 1997), LR 24:

A public hearing will be held on February 27, 1998, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (504)765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by HW061\*. Such comments must be received no later than February 27, 1998, at 4:30 p.m., and should be sent to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70884 or to FAX (504)765-0486. The comment period for this rule ends on the same date as the public hearing.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100 Asthma Boulevard, Suite 151, Lafayette, LA 70508; or on the Internet at <http://www.deq.state.la.us/olae/irdd/olaeregs.htm>.

H.M. Strong  
Assistant Secretary

9801#073

**NOTICE OF INTENT**

**Firefighters' Pension and Relief Fund  
City of New Orleans and Vicinity**

**Domestic Relations Orders**

The Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity (the "fund"), pursuant to R.S. 11:3363(F), proposes to amend and adopt rules and regulations for Determining Qualified Status of Domestic Relations Orders.

These rules were originally promulgated on pages 501 and 502 of the June 20, 1990 issue of the *Louisiana Register*, and were amended on pages 1303-1306 of the October 1997 issue of the *Louisiana Register*.

On June 20, 1990, the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans ("the trustees") adopted and implemented Procedural Rules for Determining the Qualified Status of Domestic Relations Orders; and the trustees now wish to amend these rules to incorporate the guidance and comments published more recently by the Internal Revenue Service, the Department of Labor, and the Pension Benefit Guaranty Corporation. The aforesaid rules are hereby amended to incorporate and substitute the provisions appearing below.

**Determining Qualified Status of  
Domestic Relations Orders**

**1. Intent and Construction**

These procedural rules are adopted in order to satisfy the requirements of all applicable state law including, but not limited to, R.S. 11:291, and 292, R.S. 11:3408, Subsection 206(d) of the Employee Retirement Income Security Act of 1974, 29 U.S.C. §1056(d), and §414(p) of the *Internal Revenue Code*, 26 U.S.C. §414(p), and shall be construed consistently with this purpose.

The trustees are aware that §401(a)(13)(A) of the code provides that benefits under a qualified plan may not be assigned or alienated. Section 401(a)(13)(B) establishes an exception to the anti-alienation rule for assignments made pursuant to domestic relations orders that constitute Qualified Domestic Relations Orders ("QDROs") within the meaning of §414(p)(1)(B) and of Paragraph 2 hereof. Moreover, R.S. 11:291 and 292 similarly establish exceptions to the anti-assignment prohibition imposed by R.S. 11:3408 in regard to this fund. In view of the trustees' intent to administer the fund as a qualified plan, as well as their awareness that R.S. 11:291 and 292 require the fund to honor certain court-ordered assignments relating to community property rights and child support, these rules hereby establish the trustees' willingness to recognize and enforce any QDRO that meets the requirements set forth herein.

It is further intended that the provisions of §414(p)(3) of the code and R.S. 11:291 and 292 be strictly observed. Therefore, the trustees shall not honor the terms of any QDRO that purports to require the fund to provide any type or form of benefit, or any option, not otherwise provided under the fund; that requires the fund to provide increased benefits (determined on the basis of actuarial value); or that requires the payment of benefits to an alternate payee that are required to be paid to another alternate payee under another order previously determined to be a QDRO.

However, the trustees shall not treat a domestic relations order as failing to meet the requirements of §414(p)(3)(A) and thus to constitute a QDRO solely because the order requires payment of benefits to an alternate payee on or after the participant's earliest retirement age, even if the participant has not separated from service at that time.

Finally, it is the trustees' intent to honor the provision of any QDRO that the participant's former spouse shall be treated as the participant's surviving spouse for purposes of the right to receive all or part of any survivor benefits payable, and that any other spouse of the participant shall not be treated as a spouse of the participant for these purposes, except as to portions of the survivor benefits not assigned to the former spouse via the QDRO. In the event the participant's former spouse is required by the provisions of a QDRO to be treated as a surviving spouse for these purposes, the former spouse must be accorded the same rights that would otherwise accrue to the surviving spouse.

## 2. Definitions

As used in these procedural rules, unless the context indicates otherwise, the following terms shall have the following meanings:

*Alternate Payee*—the participant's spouse (or former spouse) or child, or any parent, guardian, government entity, or other agent authorized by the terms of a judicial order to act on the child's behalf, who is entitled to receive some or all of the fund's benefit payments with respect to the participant under the terms of the QDRO. The same QDRO may identify more than one alternate payee; and several alternate payees may be identified in multiple QDROs. However, the trustees shall not recognize the entitlement of any alternate payee, even if specified in a domestic relations order, if the benefits

assigned therein have already been assigned by reason of an earlier QDRO validly served upon the fund.

*Domestic Relations Order*—any judgment, decree, or order (including approval of a property settlement or community property partition) that:

(i) relates to the provision of child support, alimony payments, or marital property rights to a spouse, former spouse, child, or other dependent of a participant; and

(ii) is made pursuant to a state domestic relations law (including a community property law).

A state court shall actually issue an order or formally approve a proposed property settlement in order for it to be recognized by the trustees as a domestic relations order. A property settlement or community property partition signed by a participant and the participant's former spouse, or a draft order to which both parties consent, shall not be considered a domestic relations order until the state authority has adopted it as an order or formally approved it and made it part of the domestic relations proceeding.

*Earliest Retirement Date*—the earlier of:

(i) the date on which the participant is entitled to a distribution under the fund; or

(ii) the later of:

(A) the date the participant attains age 50; or

(B) the earliest date on which the participant could begin receiving benefits under the fund if the participant separated from service.

*Participant*—any employee or former employee of an employer in relation to the fund who is or may become eligible to receive a benefit of any type from the fund, and who is the individual whose benefits under the fund are being divided by the QDRO.

*Qualified Domestic Relations Order*—a domestic relations order that creates or recognizes the existence of an alternate payee's right (or assigns to an alternate payee the right) to receive all or a portion of the benefits payable with respect to a participant in the fund, provided that the order:

(i) clearly specifies:

(A) the name and last known mailing address (if any) of the participant and the name and mailing address of each alternate payee covered by the order or, in the event the alternate payee is a minor or legally incompetent, the name and address of the alternate payee's legal representative; provided, however, that the trustees shall not withhold recognition as a QDRO of a judicial order issued in connection with a participant's child support obligations merely because the name of the child on whose behalf the order has been issued is not specified therein, so long as the order identifies the name of the authorized individual or agency, with appropriate address to which the benefit assignment is to be forwarded, and so long as the order specifically identifies the payment as a child support obligation;

(B) the amount or percentage of the participant's or the survivor benefits to be paid by the fund to each such alternate payee, or the manner in which such amount or percentage is to be determined;

(C) the number of payments or the period to which such order applies, and

(D) the name and identity of the fund;

(ii) does not require:

(A) the fund to provide any type or form of benefits, or any option, not otherwise provided under the fund;

(B) the fund to provide increased benefits (determined on the basis of actuarial value); or

(C) the payment of benefits to an alternate payee that are required to be paid to another alternate payee under another order previously determined to be a qualified domestic relations order.

*Trustees*—the Board of Trustees for the Firefighters' Pension and Relief Fund for the City of New Orleans, or such person or entity to whom the board has delegated responsibility to make determinations on its behalf under these rules.

### 3. QDRO Language

Many factors should be taken into account by the drafters of a QDRO in determining which benefits to assign to an alternate payee and how these benefits are to be assigned. Because of the complexity and variety of the factors that should be considered and the need to tailor the assignment of benefits under a QDRO to the individual circumstances of the parties, it would be inappropriate for the trustees to propose specific sample language for inclusion in a QDRO. Instead, individual participants and alternate payees, and their respective attorneys, are directed to collaborate jointly upon the drafting of orders that meet their individual needs. Nevertheless, if so requested, the trustees shall review any proposed order submitted to the fund prior to its submission to the appropriate court for execution and entry, with a view to indicating the trustees' probable determination concerning its status as a QDRO. The trustees are required by law to honor and enforce the terms of any QDRO which meets the conditions specified in these rules and as may subsequently be determined by the applicable statutes and the courts' interpretations thereof.

For further guidance concerning those matters that should be considered when drafting a QDRO (e.g., types of benefits, approaches to dividing retirement benefits, form and commencement of payment to alternate payees, survivor benefits and treatment of former spouse as participant's spouse, and tax treatment of benefit payments made pursuant to a QDRO) the parties are encouraged to consult Notice 97-11 issued by the Internal Revenue Service and appearing in *Internal Revenue Bulletin 1997-2* dated January 13, 1997. Additional guidance may be found in the Pension Benefit Guaranty Corporation's booklet entitled *Divorce Orders and PBGC*, which discusses the special QDRO rules that apply for plans that have been terminated and are trustee by PBGC, and provides model QDROs for use with those plans. The publication may be obtained by calling PBGC's Customer Service Center at 1-800-400-PBGC, or electronically via the PBGC Internet site at "<http://www.pbgc.gov>." However, some or all of the principles there set forth may not apply to this fund by reason of its status as a statutory governmental plan and/or the types of benefits payable under R.S. 11:3361 et seq.

### 4. Notice

Upon the fund's receipt of a domestic relations order with respect to a participant, the trustees shall promptly give notice of these procedural rules to the participant and to each person specified in the order as entitled to payment of any fund benefits under the order, at the address the order specifies.

### 5. Determination

(a) The trustees shall determine whether a domestic relations order is a qualified domestic relations order within a reasonable time after it is received, and shall have the right to require such evidence as he may reasonably need to make the determination.

(b) The trustees shall notify the participant and the alternate payee of the determination no less than 30 days before making any payment pursuant to the order, if it is determined to be a qualified order, or within a reasonable time if it is determined not to be a qualified order.

(c) The participant may appeal such a determination to the trustees upon written application to the trustees. The participant may review any documents pertinent to the appeal and may submit issues and comments in writing to the trustees. No appeal shall be considered unless it is received by the trustees within 90 days after receipt by the participant of written notice of the determination.

(d) The trustees shall decide the appeal within 60 days after it is received. If special circumstances require an extension of time for processing, however, a decision shall be rendered as soon as possible, but not later than 120 days after the appeal is received. If such an extension of time for deciding the appeal is required, written notice of the extension shall be furnished to the participant prior to the commencement of the extension.

(e) The trustees' decision shall be in writing and shall include specific reasons for the decision, expressed in a manner calculated to be understood by the participant and the alternate payee.

### 6. Payments Pending Determination

During any period in which the issue whether a domestic relations order is a qualified domestic relations order is being determined (by the trustees, by a court of competent jurisdiction, or otherwise), the trustees shall segregate in a separate account in the fund the amounts that would have been payable to the alternate payee during such period if the order had been determined to be a qualified domestic relations order.

(a) To the extent that the domestic relations order is determined to be qualified, the fund shall pay the segregated amounts (plus any interest on them) to the person or persons entitled to them according to the terms of the order. In the case of determinations appealed under these procedural rules, the payment shall be made not less than 10 days nor more than 30 days after the issuance of the trustees' disposition of the appeal.

(b) To the extent that the domestic relations order is determined not to be qualified, the fund shall pay the segregated amounts (plus any interest on them) to the person

or persons who would have been entitled to such amounts without regard to the terms of the order. In the case of determinations appealed under these procedures, the payment shall take place not less than 10 days nor more than 30 days after the issuance of the trustees' disposition of the appeal.

(c) To the extent that the issue whether the domestic relations order is qualified is not resolved within 18 months after the fund receives notice of the order, the trustees shall pay the segregated amounts (plus any interest on them) to the person or persons who would have been entitled to these amounts without regard to the terms of the order.

#### **7. Representative of Alternate Payee**

An alternate payee, by written notice to the trustees, may designate a representative for receipt of copies of notices that are sent to the alternate payee with respect to a domestic relations order.

A public hearing will be conducted by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity at 10 a.m. on February 26, 1998 at 329 South Dorgenois Street, New Orleans, LA 70119.

Any interested party may submit data, views or arguments orally or in writing concerning these rules or may make inquiries concerning the adoption of these rules to Richard J. Hampton, Jr., Secretary-Treasurer of the Board of Trustees, 329 South Dorgenois Street, New Orleans, LA 70119.

William M. Carrouché  
President

#### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Domestic Relations Orders**

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

There are no estimated costs or savings to the state or local governmental units as a result of this proposed measure.

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

Adoption and implementation of the proposed amended rules and regulations for determining qualified status of domestic relations orders will have no effect on revenue collections of state or local governmental units.

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

Adoption and implementation of the proposed amendments will have no cost impact, nor provide an economic benefit to any person or nongovernmental group.

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

Adoption and implementation of the proposed amendments for determining qualified status of domestic relations orders will have no effect on competition and employment.

Marie Healey  
Fund Counsel  
9801#055

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

## **NOTICE OF INTENT**

### **Office of the Governor Commission on Law Enforcement and Administration of Criminal Justice**

Code of Professional Conduct  
Asset Forfeiture (LAC 22:III.Chapter 61)

In accordance with the provision of R.S. 15:1204, R.S. 15:1207, and R.S. 49:950 et seq., the Administrative Procedure Act, the Commission on Law Enforcement and Administration of Criminal Justice hereby gives notice of its intent to adopt rules and regulations relative to a code of professional conduct for asset forfeiture.

#### **Title 22**

### **CORRECTIONS, CRIMINAL JUSTICE, AND LAW ENFORCEMENT**

#### **Part III. Commission on Law Enforcement and Administration of Criminal Justice**

##### **Subpart 7. Asset Forfeiture**

#### **Chapter 61. Code of Professional Conduct**

##### **§6101. Adoption**

The Louisiana Commission on Law Enforcement and Administration of Criminal Justice has adopted a code of professional conduct for asset forfeiture at a meeting held Tuesday, December 2, 1997.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 24:

##### **§6102. Introduction**

The purpose of the Code of Professional Conduct is to establish ethical standards applicable to asset forfeiture programs throughout the state of Louisiana. These standards are similar to the National Code of Professional Conduct for Asset Forfeiture.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 24:

##### **§6103. Code of Professional Conduct**

A. Law enforcement is the principal objective of forfeiture. Potential revenue must not be allowed to jeopardize the effective investigation and prosecution of criminal offenses, officer safety, the integrity of ongoing investigations, or the due process rights of citizens.

B. A prosecutor's or sworn law enforcement officer's employment or salary shall not be contingent upon the level of seizures or forfeitures he or she achieves.

C. Whenever practical, and in all cases involving real property, a judicial finding of probable cause shall be secured when property is seized for forfeiture. Seizing agencies shall strictly comply with all applicable legal requirements governing seizure practice and procedure.

D. A judicial finding of probable cause must be secured as provided by law.

E. Seizing entities shall have a manual detailing the statutory grounds for forfeiture and all applicable policies and procedures.

F. The manual shall include procedures for prompt notice to interest holders, the expeditious release of seized property where appropriate, and the prompt resolution of claims of innocent ownership.

G. All property forfeited must be sold at public sale, and the proceeds distributed according to law.

H. Unless otherwise provided by law, forfeiture proceeds shall be maintained in a separate fund or account subject to appropriate accounting controls and annual financial audits of all deposits and expenditures.

I. Seizing agencies shall strive to ensure that seized property is protected and its value preserved.

J. Seizing entities shall avoid any appearance of impropriety in the sale or acquisition of forfeited property.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 24:

Interested persons may submit written comments on this proposed rule no later than February 8, 1998, at 5 p.m. to Judy Mouton, Deputy Director, Commission on Law Enforcement and Administration of Criminal Justice, 1885 Wooddale Boulevard, Room 708, Baton Rouge, LA 70806.

Michael A. Ranatza  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Ethical Standards for Asset Forfeiture**

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

It is estimated that implementation of the proposed rules will increase expenditures to the Commission on Law Enforcement and Administration of Criminal Justice by \$340 in printing costs to publish the rules in the *Louisiana Register*. These proposed rules are being promulgated in accordance with HCR 156 of the 1997 Regular Session which directed the commission to promulgate guidelines similar to the National Asset Forfeiture Ethical Standards. These guidelines will detail the statutory grounds for forfeiture, procedures for prompt notice, and prompt resolution of claims. These proposed rules will require those local governmental units with asset forfeiture programs to update their policy and procedure manuals and to disseminate copies to certain personnel. These copying charges should be minimal to local governmental units.

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

It is estimated that implementation of the proposed rules will have no effect on revenue collections of state governmental units. The effect on revenue collections of local governmental units is unknown. These rules will establish ethical standards applicable to asset forfeiture programs throughout the state. There could be a potential reduction in revenue collections for those local law enforcement agencies with forfeiture and seizure

practices which would be prohibited by the Code of Professional Conduct for Asset Forfeiture; however, the exact amount is unknown.

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

Individual persons or nongovernmental groups would not be directly affected by the establishment of ethical standards for asset forfeiture.

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

There is no effect on competition or employment in the public or private sector as a result of these proposed rules.

Michael A. Ranatza  
Executive Director  
9801#074

Richard W. England  
Assistant to the  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Dentistry**

Comprehensive Rule Revisions  
(LAC 46:XXXIII.Chapters 1-17)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Dental Practice Act, R.S. 37:751 et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.Chapters 1-17. No preamble has been prepared.

**Title 46  
PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part XXXIII. Dental Health Professions**

**Chapter 1. General Provisions**

**§103. Evidence of Graduation**

A. All applicants for a dental or dental hygiene license shall furnish the board with satisfactory evidence of graduation from an accredited dental school, dental college, or educational program prior to the examination given by the board for such licensure. An accredited dental school, dental college, or educational program shall be one that has been certified as accredited by the Commission on Dental Accreditation of the American Dental Association.

B. The phrase "satisfactory evidence of graduation from an accredited dental school, dental college or educational program" shall mean receipt of satisfactory evidence from the dean of the applicant's school specifically stating that the applicant will indeed graduate within 90 days following the administration of the Louisiana State Board of Dentistry clinical licensing examination.

C. The president of the board shall withhold his signature on the license of the applicant pending receipt of satisfactory evidence of graduation before awarding the applicant's license to practice dentistry or dental hygiene in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Dentistry, LR 10:88 (February 1984), amended by the Department of Health and Hospitals, Board of Dentistry, LR 24:

#### **§108. Levels and Definitions of Supervision**

Licensed dentists who employ dental assistants, expanded duty dental assistants, and dental hygienists shall be responsible for the supervision of those employees' authorized duties. Authorized duties of dental assistants, expanded duty dental assistants, and dental hygienists may also be under the supervision of a licensed dentist who assumes responsibility for the treatment of that patient.

1. Direct Supervision. A licensed dentist personally diagnoses the condition to be treated; personally authorizes the procedures; is in the dental office or treatment facility during the performance of the authorized procedures; and, before dismissal of the patient, evaluates the performance of the dental assistant, expanded duty dental assistant, or dental hygienist.

2. General Supervision. The licensed dentist has authorized the procedures, which are being carried out by the dental hygienist in accordance with the dentist's treatment plan; however, the dentist is not required to be present in the dental office or treatment facility during the performance of the supervised procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:

#### **§110. Licensees Suffering Impairment Due to Alcohol or Substance Abuse**

A. After considerable study and review of other state practices in regards to evaluation, diagnosis, prognosis, and treatment of licensees suffering impairment through chemical or drug abuse, the board shall hereby abide by the following procedures.

1. The board shall attempt to have the Louisiana Dental Association, the Louisiana Dental Hygiene Association, or a constituent association thereof, conduct an intervention with the alleged impaired licensee.

2. Where possible, a member of the Louisiana State Board of Dentistry may attend said intervention on either an official or unofficial basis according to his judgment in each particular case.

3. If the alleged impaired licensee fails to comply with the wishes and instructions of the intervention within seven days following said intervention, the board may order said alleged licensee into a properly equipped and board-approved facility for evaluation and, if necessary, treatment for the impairment, if same is proven positive. Should the evaluation prove that the licensee is not impaired, the cost of the evaluation shall be borne by the board. If the evaluation is positive for impairment, the cost for evaluation and all treatment thereof shall be borne by the licensee.

4. Should the alleged impaired licensee fail to comply with the order of the board relative to evaluation and treatment, formal proceedings may be brought against the alleged impaired licensee as soon as practicality dictates.

B. Any adverse action taken as a result thereof shall be reported to the National Practitioner Data Bank. However, if

there is no action taken by the board in these matters, any required reporting to the National Practitioner Data Bank shall not be the responsibility of the Louisiana State Board of Dentistry.

C. If the impaired licensee has violated any other provisions of the Louisiana Dental Practice Act, said violation shall be prosecuted and any subsequent action taken thereof shall be reported to the National Practitioner Data Bank.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(2) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:

#### **§112. Avoidance of Conflict of Interest by Board Members**

A. No board member, during his or her term of office, shall simultaneously serve or hold the following appointive or elective offices in any local or statewide voluntary dental or dental hygiene association, organization, or society:

1. president;
2. president-elect;
3. vice-president;
4. secretary;
5. treasurer;
6. board of directors (elected or ex-officio);
7. peer review committee;
8. delegate or alternate delegate.

B. However, §112 shall not prohibit a board member from participating in any capacity relative to the administration of continuing education in any local or statewide voluntary dental association, organization, or society.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:

#### **§114. Reinstatement of Licenses Revoked for Nonpayment**

Any licensee seeking the reinstatement of his or her license to practice dentistry or dental hygiene in the state of Louisiana shall request, in writing, the reinstatement of his or her license, and personally appear before the board for an interview to determine the merits of the request for reinstatement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:

#### **§116. Reconsideration of Adverse Sanctions**

A. Any person wishing to initiate an application for reconsideration of an adverse disciplinary decision of the board or consent decree must make the request in writing and it shall be received by the board at its office at least 30 days prior to the next scheduled meeting of the board.

B. The request for reconsideration should be accompanied by supporting documentation and other pertinent information demonstrating his/her professional and/or personal rehabilitation since the adverse disciplinary sanctions or decision of the board.

C. If timely received, the applicant's written request and all supporting documentation and/or information are delivered to the board's disciplinary committee which originally rendered the adverse decision to the applicant, and said committee shall determine if the applicant's request for reconsideration has

substantial merit. In the course of the committee's review, if it deems necessary, it may require the applicant and all supporting references to appear in person before the committee for the purpose of affording the committee an opportunity to personally interview each person. All expenses for the attendance of the applicant and his/her personal references shall be borne by the applicant. Because of the nature of the request, the committee may entertain it in executive session at the option of the applicant. Moreover, the committee shall prescribe time limitations for all speakers appearing before it and order such other considerations as will promote a fair and orderly review of the subject matter. After review of the documentation and completion of the interviews, if any, the committee will determine if the request for reconsideration has sufficient merit to warrant the committee's favorable recommendation to the full board. If the committee rules favorably to the applicant, then the applicant's entire request for reconsideration and all supporting documentation and/or information are forwarded to the full board for its further consideration at the next scheduled board meeting.

D. If the committee decides that the application is without substantial merit, it shall so inform the officers of the board and, thereafter, one officer shall be appointed to notify the applicant, in writing, of said unfavorable action.

E. The full board, at its next meeting, may consider the matter in open meeting if requested to do so by the applicant. In the absence of such consent, the board shall entertain the matter in executive session. In the course of the board's review, if it deems necessary, it may require the applicant and all supporting references to appear in person before the board for the purpose of affording the board an opportunity to interview each person first hand. All expenses for the attendance of the applicant and his/her personal references shall be borne by the applicant. Moreover, the board shall prescribe time limitations for all speakers appearing before it and order such other considerations as will promote a fair and orderly meeting.

F. If the full board concurs with the favorable recommendations of the disciplinary committee, then the board shall decide upon the exact terms and conditions of any amendment, modification, or other change in the original decision rendered against the applicant. Thereafter, the applicant shall be notified, in writing, of the board's decision.

G. If the full board does not concur with the favorable recommendations of the disciplinary committee, then the board shall so notify the applicant in writing.

H. Any person desiring to file an application for a reconsideration with the board shall be permitted to do so only once every 12 months. If an application is denied, then that person must wait at least until the expiration of 12 months from the date appearing on the board's denial letter before submitting a subsequent application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:

#### **§118. Guidelines for Granting Return to Active Status**

In addition to the continuing education requirements set forth in LAC 46:XXXIII.1601 et seq., an applicant must pass

the examination in jurisprudence and ethics as given by the board, and make full payment of all necessary fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:

#### **§120. Temporary Licenses**

Under R.S. 37:760(6), the board is authorized to issue licenses in conformity with the Louisiana Dental Practice Act. However, under R.S. 37:752(8), dentists and dental hygienists may obtain a temporary license without satisfying all licensing requirements of the Louisiana Dental Practice Act provided the applicant applies for a full license by taking an examination at the next time the clinical licensure examination is given by the board or by applying for licensure by credentials. In order to protect the public and to avoid abuses of this exemption, the board shall not award a temporary license to any dentist under the provisions of R.S. 37:752(8), and will not award a temporary license to any dental hygienist within 60 days before or 60 days after the clinical licensing examination is given. Section 120 does not prohibit the awarding of temporary licenses to dentists who are seeking exemptions under R.S. 37:752(4).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:

#### **§122. Scopes of Practice**

A. The board has reviewed and approved the "Standards for Advanced Specialty Education Programs" set forth by the Commission on Dental Accreditation of the American Dental Association and approves of the following specialties:

1. dental public health;
2. endodontics;
3. oral and maxillofacial surgery;
4. oral pathology;
5. orthodontic and facial orthopedics;
6. pediatric dentistry;
7. periodontics; and
8. prosthodontics.

B. The board approves of the definition of the specialties listed in §122.A and as set forth in §301.D, and acknowledges that those definitions set forth the scope of practice of said specialties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:

### **Chapter 3. Dentists**

#### **§306. Requirements of Applicants for Licensure by Credentials**

A. Before any applicant is awarded a license according to his/her credentials in lieu of an examination administered by the board, said applicant shall provide to the board satisfactory documentation evidencing that he/she:

1. has satisfactorily passed an examination administered by the Louisiana State Board of Dentistry testing the applicant's knowledge of the Louisiana Dental Practice Act and the jurisprudence affecting same;

2. currently possesses a nonrestricted license in another state as defined in R.S. 37:751(L);

3. has been in active practice, while possessing a nonrestricted license in another state, by working full-time as a dentist at a minimum of 1,000 hours per year for the preceding five years before applying for licensure in Louisiana or full-time dental education as a teacher for a minimum of three years immediately prior to applying for licensure; or has completed a two-year general dentistry residency program or successfully completed a residency program in one of the board recognized dental specialties as defined in §301;

4. - 18. ...

19. is free of any communicable or contagious disease, including but not limited to Human Immunodeficiency Virus and Hepatitis B Virus, and provide a notarized certificate of health from a medical doctor relative to his physical and mental condition;

20. has completed continuing education equivalent to the state of Louisiana's for the two years prior to applying for licensure by credentials.

B. The applicant must also:

1. show or provide a sworn affidavit that there are no unresolved complaints against him/her;

2. provide a notarized statement from the local peer review chairman where he/she is presently practicing stating that there have been no negative cases within the preceding five years relative to the applicant;

3. sign a release authorizing the peer review chairman to provide such information to the board;

4. show that his professional liability insurance has never been revoked, modified, or nonrenewed;

5. show proof that he/she has not failed the Louisiana State Board of Dentistry clinical licensure examination within the preceding 10 years;

C. A person in a residency program may not apply for licensure by credentials unless they have held an active license for at least two years during said residency. The fact of passing a regional board examination is not acceptable unless the license has been activated.

D. Applicants must also meet those requirements set forth in R.S. 37:761 and LAC 46:XXXIII.103.

E. Regardless of the applicant's compliance with the foregoing requirements, the board may refuse to issue a dental or dental hygiene license based on the applicant's credentials for any reason listed in R.S. 37:775 and R.S. 37:776.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and R.S. 37:768.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18:739 (July 1992), amended LR 21:571 (June 1995), LR 22:23 (January 1996), LR 23:1528 (November 1997), LR 24:

## **Chapter 4. Fees and Costs**

### **Subchapter A. General Provisions**

#### **§405. Payments Nonrefundable**

Except as may be expressly provided by these rules, all fees and costs paid to the board shall be nonrefundable in their entirety. All licenses renewed for two years shall be paid in full whether the licensee intends to retire within the two-year period or not.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and R.S. 37:795.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 14:791 (November 1988), amended LR 24:

### **Subchapter C. Fees for Dentists**

#### **§415. Licenses, Permits, and Examinations**

For processing applications for licensure, permits, and examinations, the following fees shall be payable in advance to the board:

1. Examination and licensing of dental applicant \$500

2. - 11. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and R.S. 37:795.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 14:792 (November 1988), amended LR 16:566 (June 1990), LR 18:741 (July 1992), LR 23:1526 (November 1997), LR 24:

### **Subchapter D. Fees for Dental Hygienists**

#### **§419. Licenses, Permits, and Examinations**

For processing applications for licensure, permits, and examinations, the following fees shall be payable in advance to the board:

1. Examination and licensing of dental hygienist applicant \$200

2. - 8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and R.S. 37:795.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 14:792 (November 1988), amended LR 16:566 (June 1990), LR 18:741 (July 1992), LR 23:1527 (November 1997), LR 24:

## **Chapter 5. Dental Assistants**

### **§502. Authorized Duties of Expanded Duty Dental Assistants**

A. A person licensed to practice dentistry in the state of Louisiana may delegate to any expanded duty dental assistant any chairside dental act that said dentist deems reasonable, using sound professional judgment. Such act must be performed properly and safely on the patient and must be reversible in nature. Furthermore, the act must be under the direct supervision of the treating dentist. However, a dentist may not delegate to an expanded duty dental assistant:

1. periodontal screening and probing, or subgingival exploration for hard and soft deposits and sulcular irrigations;

2. the removal of calculus, deposits or accretions from the natural and restored surfaces of teeth or dental implants in the human mouth using hand, ultrasonic, sonic, or air polishing instruments;

3. root planing or the smoothing and polishing of roughened root surfaces using hand, ultrasonic, or sonic instruments;

4. placement and removal of antimicrobial impregnated fibers;

5. comprehensive examination or diagnosis and treatment planning;

6. a surgical or cutting procedure on hard or soft tissue including laser and micro abrasion reduction of tooth material;

7. the prescription of a drug, medication, or work authorization;

8. the taking of an impression for a final fixed or removable restoration or prosthesis;

9. the final placement and intraoral adjustment of a fixed appliance;

10. the final placement and intraoral or extraoral adjustment of a removable appliance;

11. the making of any intraoral occlusal adjustment;

12. the performance of direct pulp capping or pulpotomy;

13. the placement or finishing of any final restoration;

14. the final placement of orthodontic bands or brackets except in indirect bonding procedures in which the dentist has either performed the final placement of the brackets on the model or when the dentist has written a detailed prescription to the laboratory for placement of the bracket;

15. the administration of a local anesthetic, parenteral, Intravenous (IV), inhalation sedative agent or any general anesthetic agent; and

16. placement of pit and fissure sealants.

B. The delegating dentist shall remain responsible for any dental act performed by an expanded duty dental assistant.

C. Certified expanded duty dental assistants may not hold themselves out to the public as authorized to practice dentistry or dental hygiene.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:205 (February 1993), amended LR 21:569 (June 1995), LR 22:793 (August 1996), LR 22:1217 (December 1996), LR 24:

### **§503. Guide to Curriculum Development for Expanded Duty Dental Assistants**

A. Cognitive Objectives. Before becoming registered to perform expanded duty dental assistant functions, dental assistants should be tested on the reasons for doing these procedures, the criteria for correct performance of these procedures, and the effects of improper performance of these procedures. The dental assistant shall be familiar with the state Dental Practice Act and the rules and regulations governing dental auxiliaries. This testing shall be included within at least 30 hours of instruction.

B. The following is a model outline for the expanded duty dental assistant course. The hours are to be allocated by the instructor in accordance with current law:

1. introduction: what is an expanded duty dental assistant?;

2. jurisprudence: legal duties of auxiliaries; limitation of auxiliary services; responsibility of dentists for all service provided under dentist's supervision; responsibility of auxiliaries to perform only those functions that are legally delegated; penalties for violation of Dental Practice Act; and mechanism to report to the board violations of dentists and/or auxiliaries;

3. infection control and prevention of disease transmission; dental assistants' responsibilities in upholding universal barrier techniques; and OSHA rules;

4. handling dental emergencies;

5. charting;

6. oral anatomy; morphology of the teeth; and medical and dental history for the dentist's review (vital signs,

drug evaluation, medical laboratory reports, ascertaining the patient's chief dental problem);

7. overview of dental materials: cavity liners, temporary crown materials, periodontal dressings, post-surgical packs and acid-etch materials;

8. coronal polishing: rationale, materials, techniques and contraindications;

9. lab on coronal polishing and performance evaluation; half of the lab period shall be spent practicing on typodonts while the second half shall be spent practicing on partners;

10. lecture on use of gingival retraction cords; types of cords placement; and removal of cords.

11. lab on placement and removal of retraction cords; and performance evaluation-lab period shall be practicing on mannequins;

12. lab on placement of cavity liners; placement of temporary restorations; fabrications and placement of temporary crowns; placement of periodontal dressings; placement of post-surgical packs; performance of acid-etch techniques; placement and removal of wedges and matrices; and performance evaluation;

13. lecture on monitoring nitrous oxide/oxygen (N<sub>2</sub>O/O<sub>2</sub>) sedation;

14. Cardiopulmonary Resuscitation Course "C," Basic Life Support for Health Care Providers as defined by the American Heart Association or the Red Cross Professional Rescue Course; this course may count for three hours of instruction provided this course has been successfully completed within six months prior to certification;

15. clinical exam instructions;

16. clinical and written exams.

C. All applicants for expanded duty dental assistant certificate confirmation must successfully complete a course in x-ray function and safety approved by the Louisiana State Board of Dentistry. Any dental assistant who may have been grandfathered in 1984 with the amendment to R.S. 37:792 must still take a radiology course as described herein in order to seek the certificate confirmation as an expanded duty dental assistant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:205 (February 1993), amended LR 22:22 (January 1996), LR 24:

### **§507. High School Diploma Requirement**

Effective January 1, 1998, all applicants for expanded duty dental assistant certificate confirmation shall present satisfactory documentation evidencing their graduation from an accredited high school or receipt of a general equivalency diploma (GED).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:

## **Chapter 7. Dental Hygienists**

### **§701. Authorized Duties**

A. Dental hygienists are expressly authorized to perform the procedure referred to as an *oral prophylaxis*, which is defined as the removal of plaque, calculus and stains from the

exposed and unexposed surfaces of the teeth by scaling and polishing as a preventive measure for the control of local irritational factors.

B. A person licensed to practice dentistry in the state of Louisiana may delegate to any dental hygienist any chairside dental act which said dentist deems reasonable, using sound professional judgment. Such act must be performed properly and safely on the patient. Furthermore, the act must be under the direct on-premises supervision of the treating dentist. However, dental hygienists who perform authorized duties in any public institution or school may perform authorized duties under the general supervision of a licensed dentist. A dentist may not delegate to a dental hygienist:

1. comprehensive examination or diagnosis and treatment planning;
2. a surgical or cutting procedure on hard or soft tissue including laser and micro abrasion reduction of tooth material;
3. the prescription of a drug, medication, or work authorization;
4. the taking of an impression for a final fixed or removable restoration or prosthesis;
5. the final placement and intraoral adjustment of a fixed appliance;
6. the final placement and intraoral or extraoral adjustment of a removable appliance;
7. the making of any intraoral occlusal adjustment;
8. the performance of direct pulp capping or pulpotomy;
9. the placement or finishing of any final restoration except for the polishing of an amalgam restoration;
10. the final placement of orthodontic bands or brackets except in indirect bonding procedures in which the dentist has either performed the final placement of the brackets on the model or when the dentist has written a detailed prescription to the laboratory for placement of the bracket; and
11. the administration of local anesthetic, parenteral, Intravenous (IV), inhalation sedative agent, or any general anesthetic agent (exception: see §710, "Administration of Local Anesthesia for Dental Hygiene Purposes").

C. The delegating dentist shall remain responsible for any dental act performed by a dental hygienist.

D. Registered dental hygienists may not hold themselves out to the public as authorized to practice dentistry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 14:791 (November 1988), amended LR 15:965 (November 1989), LR 19:206 (February 1993), LR 22:22 (January 1996), LR 22:1217 (December 1996), LR 24:

#### **§706. Requirements of Applicants for Licensure by Credentials**

A. Before any applicant is awarded a license according to his/her credentials in lieu of an examination administered by the board, said applicant shall provide to the board satisfactory documentation evidencing that he/she:

1. has satisfactorily passed an examination administered by the Louisiana State Board of Dentistry testing the applicant's knowledge of the Louisiana Dental Practice Act and the jurisprudence affecting same;
2. - 17. ...

18. is free of any communicable or contagious disease, including but not limited to Human Immunodeficiency Virus and Hepatitis B Virus, and provide a notarized certificate of health from a medical doctor relative to his/her physical and mental condition;

19. has completed continuing education equivalent to the state of Louisiana's for the two years prior to applying for licensure by credentials.

B. The applicant must also:

1. show or provide a sworn affidavit that there are no unresolved complaints against him/her;
2. show that his/her professional liability insurance has never been revoked, modified, or nonrenewed;
3. show proof that he/she has not failed the Louisiana State Board of Dentistry clinical licensing examination within the preceding 10 years.

C. Applicants must also meet those requirements set forth in R.S. 37:764 and LAC 46:XXXIII.103.

D. Further, applicants must be in compliance with or not found guilty of any violations of R.S. 37:775 and/or R.S. 37:777.

E. Regardless of the applicant's compliance with the foregoing requirements, the board may refuse to issue a dental or dental hygiene license based on the applicant's credentials for any reason listed in R.S. 37:775 or R.S. 37:777.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and R.S. 37:768.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18:737 (July 1992), amended LR 21:570 (June 1995), LR 22:23 (January 1996), LR 24:

#### **§710. Administration of Local Anesthesia for Dental Purposes**

A. After satisfying the board of his or her competence to administer local anesthesia, a licensed dental hygienist may qualify for a special endorsement to administer local anesthesia for dental procedures under the direct on-premises supervision of a licensed dentist.

B. Competence to administer local anesthesia must be demonstrated to the board by successful completion of a course of study of at least 72 hours of instruction in a formal program in administration of local anesthesia sponsored by an institutional program accredited by the Commission on Dental Accreditation of the American Dental Association and approved by the board. A certificate of course completion and a copy of the syllabus must be submitted to the board for approval. The course must include didactic studies and clinical experience in the administration of long buccal, maxillary and mandibular infiltration anesthesia; mental block anesthesia; lingual nerve block; and inferior alveolar nerve block anesthesia; medical history and physical evaluation of the patient; and the prevention, diagnosis, and management of medical emergencies which can be encountered in the dental patient. A minimum of 20 satisfactory injections is required.

C. The curriculum for required study must include, but is not necessarily limited to:

1. medical history evaluation procedures;
2. physical evaluation;
3. CPR certification in accordance with board rules;
4. understanding pharmacology of local anesthesia and vasoconstrictors;

5. local anesthesia, didactic, and clinical course:
  - a. anatomy of head, neck, and oral cavity as it relates to administering local anesthetic agents;
  - b. indications and contraindications for administration of local anesthesia;
  - c. selection and preparation of the armamentaria and record keeping for administering various local anesthetic agents;
  - d. medical and legal management complications;
  - e. recognition and management of post-injection complications and management of reactions to injections;
  - f. proper infection control techniques with regard to local anesthesia and proper disposal of sharps;
  - g. methods of administering local anesthetic agents with emphasis on:
    - i. technique;
      - (a). aspiration;
      - (b). slow injection; and
    - ii. minimum effective dosage;
6. medical emergency, prevention, diagnosis, and management.

D. Upon satisfactory completion of the application process, the applicant must pass the board-administered written examination in the administration of local anesthesia.

E. A dental hygienist who has been licensed and trained in a course equivalent to §710.B and C to administer local anesthesia in another state may qualify, at the discretion of the board, to take the exam by presenting written documentation of such licensure and training to the board and documentation of experience in the past two years and by gaining approval of the board through the interview process;

F. A dental hygienist can maintain local anesthesia privileges by administering at least 50 patient visits using local anesthetic injection during the previous five years, documented by a log book to include date of visit, patient name, supervising dentist, purpose of injection, and any adverse reaction or complication. Otherwise, he or she must satisfy the board of competence to administer local anesthesia by successfully completing a course of 72 hours of studies that satisfies the curriculum requirements of §710.

G. A licensed dental hygienist who has demonstrated competence to the satisfaction of the board may qualify for a special endorsement and may undertake the administration of local anesthesia by:

1. successfully completing the written examination administered by the board;
2. substantiating the adequacy of training; and
3. limiting administration of local anesthesia as provided by these rules.

H. The endorsement shall be for a period of five years and renewable with documentation of experience as described in §710.F.

I. Any hygienist who is not certified by the state of Louisiana in local anesthesia and who performs such a procedure is subject to severe sanctions up to and including revocation of his/her license. The dentist under whose instructions he/she performed the procedure will be subject to severe sanctions up to and including revocation of the dentist's license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:

#### **§714. Administration of Local and/or Block Anesthesia by Dental Hygienists Licensed by Credentials**

Dental hygienists who are licensed in the state of Louisiana by credentials and who have been certified to administer long buccal, maxillary and mandibular infiltration anesthesia; mental block anesthesia; lingual nerve block; and inferior alveolar nerve block anesthesia, in a state of previous licensure, and who wish to administer long buccal, maxillary and mandibular infiltration anesthesia; mental block anesthesia; lingual nerve block; and inferior alveolar nerve block anesthesia in Louisiana, must have gained their certification by successfully completing a course in the administration of anesthesia equivalent to or greater than the course required of Louisiana dental hygienists as set forth in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:

#### **Chapter 13. Dental Laser and Air Abrasion Utilization**

##### **§1305. Air Abrasion Units**

Utilization of air abrasion units by licensed dental hygienists and dental auxiliaries is prohibited. However, this does not prevent the utilization of air polishing units by licensed dental hygienists and dental auxiliaries.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:

#### **Chapter 14. Rulemaking**

##### **§1401. Scope of Chapter**

The rules of this Chapter govern the board's process to consider petitions from interested persons relative to the adoption, amendment, repeal, or applicability of any statutory provision, rule, or order of the board in accordance with the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:1322 (October 1993), LR 24:

##### **§1403. Forms**

All petitions requesting the adoption, amendment, repeal, or applicability of a rule, statutory provision, or order of the board, shall be submitted on plain white, letter size (8½" by 11") bond; with margins of at least 1 inch on all sides and text double-spaced except as to quotations and other matter customarily single-spaced; shall bear the name, address, and phone number of the person requesting the action; and shall also state the complete and full name of each person(s), organization, or entity the requester represents along with sufficient information to identify and fully describe said person(s), organization, or entity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:1322 (October 1993), amended LR 24:

## **Chapter 16. Continuing Education Requirements**

### **§1607. Exemptions**

A. Continuing education requirements shall not apply to:

1. - 2. ...
3. dentists in the first calendar year of their graduation from dental school;
4. dental hygienists in the first calendar year of their graduation from dental hygiene school.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and (13).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:661 (June 1994), amended LR 24:

## **Chapter 16. Continuing Education Requirements**

### **§1611. Continuing Education Requirements for Relicensure of Dentists**

A. Unless exempted under §1607, each dentist shall complete a minimum of 20 hours of continuing education during each calendar year for the renewal of his/her license to practice dentistry. Dentists whose licenses are renewed for a two-year period are allowed to accumulate 40 hours over the two-year period.

B. ...

C. No more than 10 of the required 20 hours can be completed from the following:

1. - 2. ...
3. three credit hours for successful completion of Cardiopulmonary Resuscitation Course "C", Basic Life Support for Healthcare Providers as defined by the American Heart Association or the Red Cross Professional Rescue Course. When being audited for compliance with cardiopulmonary resuscitation course completion, a photocopy of the CPR card evidencing successful completion of the course for each year shall be appended to the form.

D. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and (13).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR: 20:661 (June 1994), amended LR 21:569 (June 1995), LR 22:24 (January 1996), LR 22:1216 (December 1996), LR 23:1526 (November 1997), LR 24:

### **§1613. Continuing Education Requirements for Relicensure of Dental Hygienists**

A. Unless exempted under §1607, each dental hygienist shall complete a minimum of 12 hours of continuing education during each calendar year for the renewal of his/her license to practice dental hygiene. Dental hygienists whose licenses are renewed for a two-year period are allowed to accumulate 24 hours over the two-year period.

B. ...

C. No more than six of the required 12 hours can be completed from the following:

1. - 2. ...
3. three credit hours for successful completion of Cardiopulmonary Resuscitation Course "C", Basic Life

Support for Healthcare Providers as defined by the American Heart Association or the Red Cross Professional Rescue Course. When being audited for compliance with cardiopulmonary resuscitation course completion, a photocopy of the CPR card evidencing successful completion of the course for each year shall be appended to the form.

D. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and (13).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR: 20:661 (June 1994), amended LR 21:570 (June 1995), LR 22:24 (January 1996), LR 22:1217 (December 1996), LR 23:1526 (November 1997), LR 24:

### **§1615. Approved Courses**

A. Courses sponsored or approved by the following organizations shall be accepted by the board:

1. - 2. ...

3. Academy of General Dentistry courses when set forth on official documentation;

4. - 9. ...

B. The following standards represent minimum criteria to which component societies, as referred to in §1615.A.7 of this rule, should adhere to if they wish the board to allow the participants to receive continuing education credits.

1. Each sponsoring organization will be responsible for developing its own specific policies for accreditation of continuing education programs and/or activities, and awarding credit hours. These policies must be filed with the board. Satisfactory documentation evidencing approval of continuing education courses must be kept by the sponsoring or approving organization on file for a minimum of four years after the presentation of the course.

2. The program shall be under the continuous guidance of an administrative authority and/or individual responsible for its quality, content, and ongoing conduct.

a. Each program or activity must have specific educational objectives or goals that relate to the dental as well as the overall healthcare needs of the public and/or the interest and needs of the dental profession. The content of the program will be directed at achieving the stated objectives or goals.

b. The instructor or instructors in charge of the program or activity must be qualified by education to provide instruction in the relevant subject matter.

c. Facilities selected for each activity must be appropriate to accomplish:

i. the educational methods being used;

ii. the stated educational objectives or goals.

C. In general, continuing education activities shall be made available to all dental healthcare workers. The board does recognize that facilities and the number of instructors may limit the number of participants.

D. Clinical credit will only be given to lectures and/or participation programs or activities that deal with the actual delivery of dental services to the patient.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and (13).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR: 20:662 (June 1994), amended LR 22:24 (January 1996), LR 24:

## **Chapter 17. Licensure Examinations**

### **§1701. Scope of Chapter**

This Chapter shall describe all procedures relative to the administration of the clinical licensing examinations for persons wishing to practice dentistry or dental hygiene in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(1) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:

### **§1703. Candidate's Manual for the Dental Licensure Examination of the Louisiana State Board of Dentistry**

This manual is too voluminous to print in LAC 46:XXXIII. Section 1703 is intended to put the public on notice that the board utilizes examination manuals which are revised every year. A copy is on file with the Office of the State Register; and copies may be obtained from the board office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(1) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:

### **§1705. Candidate's Manual for the Dental Hygiene Licensure Examination of the Louisiana State Board of Dentistry**

This manual is too voluminous to print in LAC 46:XXXIII. Section 1705 is intended to put the public on notice that the board utilizes examination manuals which are revised every year. A copy is on file with the Office of the State Register; and copies may be obtained from the board office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(1) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:

### **§1707. Religious Obligations**

There will be no exceptions relative to religious obligations in the conducting of the clinical licensing examinations of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(1) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:

### **§1709. Examination of Dentists**

A. Any person desiring to be licensed as a dentist shall apply to the board to take the licensure examination and shall verify the information required on the application by oath. The application shall include two recent photographs. There shall be an application fee set by the board not to exceed \$600 which shall be nonrefundable. There shall also be an examination fee set by the Louisiana State University School of Dentistry which shall not exceed \$200 and which may be refundable if the applicant is found ineligible to take the examination.

B. An applicant shall be entitled to take the examinations required in this Section to practice dentistry in this state if such applicant:

1. is 18 years of age or older;
2. is of good moral character;
3. is a graduate of a dental school accredited by the Commission on Dental Accreditation of the American Dental

Association or its successor agency, if any, or any other nationally recognized accrediting agency; and

4. has successfully completed the National Board of Dental Examiners Dental Examination within 10 years of the date of application.

C. To be licensed as a dentist in this state, an applicant must successfully complete the clinical licensing examination.

D. The board is expressly authorized to utilize the services of other Louisiana licensed dentists to facilitate the examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(1) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:

### **§1711. Examination of Dental Hygienists**

A. Any person desiring to be licensed as a dental hygienist shall apply to the board to take the licensure examination and shall verify the information required on the application by oath. The application shall include two recent photographs of the applicant. There shall be a nonrefundable application fee not to exceed \$400, and a clinical fee payable to the Louisiana State University School of Dentistry which shall not exceed \$100 and which may be refundable if the applicant is found ineligible to take the examination.

B. An applicant shall be entitled to take the examinations required in this Section to practice dental hygiene in this state if such applicant:

1. is 18 years of age or older;
2. is of good moral character;
3. is a graduate of a dental hygiene college or school approved by the board or accredited by the Commission on Accreditation of the American Dental Association or its successor agency; and

4. has successfully completed the National Board of Dental Hygiene Examiners Dental Examination within 10 years of the date of application.

C. To be licensed as a dental hygienist in this state, an applicant must successfully complete the following:

1. a written examination on the jurisprudence and ethics of the state regulating the practice of dental hygiene;
2. a practical or clinical examination which shall test the competency of the applicant's ability.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(1) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:

Interested persons may submit written comments on this proposed rule to C. Barry Ogden, Executive Director, Louisiana State Board of Dentistry, 1515 Poydras Street, Suite 1850, New Orleans, LA 70112. Written comments must be submitted to and received by the board within 60 days of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the board within 20 days of the date of this notice.

C. Barry Ogden  
Executive Director

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

**RULE TITLE: Comprehensive Rule Revisions**

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

A cost of \$1,280 is estimated to publish this notice of intent and final rule. Notification of this rule change will be provided to our licensees via newsletter and/or pamphlet which is already budgeted.

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

There will be no effect on revenue collections by the Louisiana State Board of Dentistry or any other state or local governmental unit.

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

Re: §103—This change will allow applicants to take our licensing examination who will graduate from dental school or dental hygiene school within 90 days from the date the examination is administered. This will help those applicants in that they will not have to wait a full year to take the clinical licensing examination.

Re: §110—If it becomes necessary for the board to suspend or revoke a license for failure to comply with this rule, those persons would suffer an economic loss.

Re: §415—There will be an increase of \$200 to persons taking the Louisiana State Board of Dentistry clinical licensing examination.

Re: §419—There will be an increase of \$25 to persons taking the Louisiana State Board of Dentistry dental hygiene clinical licensing examination.

Re: §502—Dentists who utilize the services of expanded duty dental assistants have a potential for economic benefit as a result of cost savings which may or may not be passed on to the patient who would in turn benefit as well.

Re: §701—Dentists who utilize the services of dental hygienists have a potential for economic benefit as a result of cost savings which may or may not be passed on to the patient who would in turn benefit as well.

Re: §710 and §714—There will be an economic benefit to 1) dentists employing dental hygienists; 2) dental hygienists; and 3) patients. There will be no costs and/or economic benefits to other nongovernmental groups.

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

There will be no effect on competition and employment.

C. Barry Ogden  
Executive Director  
9801#007

Richard W. England  
Assistant to the  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Pharmacy**

Pharmacy Records—Transfer of Prescription  
Information (LAC 46:LIII.2929)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Pharmacy Law, R.S. 37:1178, the Board of Pharmacy hereby gives notice to amend LAC 46:LIII.2929.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part LIII. Pharmacists**

**Chapter 29. Pharmacy Records**

**§2929. Transfer of Prescription Information**

A.1. - 2. ...

a. Pharmacies electronically accessing the same prescription drug records may transfer up to the maximum refills permitted by law and the prescriber's authorization.

3. - 4. ...

B. Manual Filing System. If a pharmacy maintains prescription information in a manual system, the transfers are subject to the following requirements.

1. - 2.b.ii. ...

iii. number of valid refills remaining, the date of last refill and, if a controlled substance, date(s), and location(s) of previous refill(s).

iv. - v. ...

C. Computerized Filing System. If a pharmacy maintains prescription information in a data processing system, the transfers are subject to the following requirements:

1. - 2. ...

3. The data processing system shall have a mechanism to prohibit the transfer of controlled substance prescriptions which have previously been transferred, unless the pharmacy can electronically access the prescription drug records at the pharmacy from which a transfer is requested.

4. The original prescription, in a data processing system, which has been transferred must be invalidated in the data processing for purposes of refilling unless other pharmacies may electronically access the prescription drug records for purposes of transfer. All required information must be maintained for at least five years.

5. ...

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1178.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 15:967 (November 1989), amended LR 24:

Any person may submit data, views, or positions orally or in writing to Fred H. Mills, Jr., Executive Director, 5615 Corporate Boulevard, Suite 8E, Baton Rouge, LA 70808, phone (504) 925-6496. Comments will be accepted through 4 p.m. on February 20, 1998.

Under the provisions of the Administrative Procedure Act, if a public hearing is necessary, it will be held from 10 a.m. to 12 noon, Wednesday, February 25, 1998, at the Board of Pharmacy office, 5615 Corporate Boulevard, Suite 8E, Baton Rouge, LA 70808, phone (504) 925-6496.

Fred H. Mills, Jr.  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Pharmacy Records—Transfer of  
Prescription Information**

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

The only cost associated with the implementation of the proposed amendment of LAC 46:LIII.2929 will be the cost of printing and distribution of the new regulation. It is estimated that the *Louisiana Register* cost of \$300, printing cost of \$500, and postage for distribution is estimated at \$640; or, a total of \$1,440 will be expended in FY 97/98.

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

This proposed amendment would have no effect on any revenue collections for this board or any state or local government entity.

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

There are no economic benefits to be gained by this regulation.

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

There will be no effect on competition or employment.

Fred H. Mills, Jr.  
Executive Director  
9801#024

Richard W. England  
Assistant to the  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Pharmacy**

Provisional Community Pharmacy  
(LAC 46:LIII.Chapter 14)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Pharmacy Law, R.S. 37:1178, the Board of Pharmacy hereby gives notice to adopt LAC 46:LIII.Chapter 14 (Provisional Community Pharmacy).

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part LIII. Pharmacists**

**Chapter 14. Provisional Community Pharmacy**

**§1401. Provisional Community Pharmacy**

*Provisional Community Pharmacy*—the practice of pharmacy at a site where prescriptions are dispensed free of charge to appropriately screened and qualified indigent patients.

*Qualified Patients*—those patients not served by Medicaid/Medicare, uninsured, and with insufficient funds, as determined by strict screening guidelines, to obtain needed medications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1178.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 24:

**§1403. Provisional Community Pharmacy Permit**

A. A provisional community pharmacy permit shall be required to operate a pharmacy in the state to transact business by dispensing free prescription drugs to patients in Louisiana. This permit shall only be granted to an organization qualified as a charitable organization in the Internal Revenue Code under §501(c)(3).

B. Permit Fee. The provisional community pharmacy permit fee shall be determined by the legislature and/or the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1178.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 24:

**§1405. Compliance**

The provisional community pharmacy must be in compliance with applicable federal, and state laws and/or regulations pertaining to the practice of pharmacy, except as exempted in §1407.C. All screening guidelines and revisions shall be submitted to the board upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1178.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 24:

**§1407. Additional Requirements**

A. Parenteral/Enteral dispensing. A provisional community pharmacy engaging in the dispensing of parenteral/enteral preparations as defined in §2101, shall obtain a parenteral/enteral permit and comply with all requirements in LAC 46:LIII.Chapter 21.

B. Accessibility. A provisional community pharmacy shall be directly accessible to the general public.

C. Pharmacy Operations. A provisional community pharmacy shall comply with the provisions of LAC 46:LIII.Chapter 11, with the exception of §§1103 and 1127.8.b.i and ii, with written board approval, in order to provide free medications to qualified indigent patients.

D. Prescription Legend Drug Samples. A provisional community pharmacy may not sell, purchase, trade, or possess prescription legend drug samples, unless the following conditions are satisfied:

1. The prescription legend drug samples are dispensed at no charge to the qualified indigent patient of the provisional community pharmacy.

2. The prescription legend drug samples are possessed in compliance with the federal Prescription Drug Marketing Act of 1986.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1178.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 24:

Any person may submit data, views, or positions orally or in writing to Fred H. Mills, Jr., Executive Director, 5615 Corporate Boulevard, Suite 8E, Baton Rouge, LA 70808, phone (504) 925-6496. Comments will be accepted through 4 p.m. on February 20, 1998.

Under the provisions of the Administrative Procedure Act, if a public hearing is necessary, it will be held from 10 a.m. to 12 noon, Wednesday, February 25, 1998, at the Board of

Fred H. Mills, Jr.  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Provisional Community Pharmacy**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
The only cost associated with the adoption of Chapter 14, Provisional Pharmacy Permit, will be the cost of printing and distribution of the new regulation. It is estimated that the *Louisiana Register* cost of \$300, printing cost of \$500, and postage for distribution is estimated at \$640; or, a total of \$1,440 will be expended in FY 97/98.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
Revenue collections will be the collections of fees to permit these provisional pharmacy permits. Projection for fiscal year 1998-1999 is \$1,000. Projection for fiscal year 1999-2000 is \$1,400.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
The proposed regulation may have a positive economic benefit for affected persons. Many Louisiana citizens cannot afford necessary prescription medications; this modification will allow the board to permit and regulate free pharmacy services to the indigent who are unable to qualify for Medicaid services.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There is no effect on competition or employment.

Fred H. Mills, Jr.  
Executive Director  
9801#023

Richard W. England  
Assistant to the  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Pharmacy**

**Schedule Drug Prescriptions (LAC 46:LIII.3531)**

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and Pharmacy Law, R.S. 37:1178, the Board of Pharmacy hereby gives notice to amend LAC 46:LIII. 3531.

*(Editor's Note:* Section 3531 is being published in full to reflect new codification, with the agency being charged for the amended portion only; therefore the agency's fiscal impact [printing, etc.] remains the same.

The revisions to §3531 refine accessibility of controlled substances in: emergency situations; for hospice patients; and for patients in long term care facilities. Revision of §3531 reflects advances in communications technology via facsimile. The revision also eliminates the duplication of paperwork.)

**Title 46  
PROFESSIONAL AND OCCUPATIONAL  
STANDARDS  
Part LIII. Pharmacists**

**Chapter 35. Pharmacy Prescription Drugs**

**§3531. Schedule Drug Prescription Requirements**

A. A schedule drug prescription or order must be issued for a legitimate medical purpose by a licensed medical practitioner in the usual course of professional practice and dispensed by a licensed pharmacist.

B. Schedule Drug Prescription Form. Schedule drug prescriptions/orders shall be written or reduced to writing with ink, indelible pencil, or typewritten in compliance with the following form:

1. patient's:
  - a. full name; and
  - b. address;
2. schedule drug:
  - a. name;
  - b. strength;
  - c. quantity;
  - d. instructions; and
  - e. dosage form;
3. authorized prescriber's:
  - a. full name;
  - b. address;
  - c. signature for Schedule II drugs; and
  - d. DEA registration number.

C. Schedule II Drug Prescriptions or Orders. Schedule II prescriptions must be issued and signed by an authorized practitioner.

1. Schedule II Drug Oral Prescriptions/Orders. A pharmacist may dispense an oral Schedule II controlled substance prescription authorized by a medical practitioner, in the case of a bona fide emergency situation, upon a prescribing practitioner's verbal authorization.

2. Emergency. A bona fide emergency situation exists when:

- a. need—schedule drug administration is necessary for immediate treatment;
- b. availability—non-available appropriate alternate treatment;
- c. reasonable—the prescribing practitioner cannot reasonably provide a written prescription.

3. Adequate Regime. Dispense a limited amount of schedule drugs to treat the patient during the emergency period.

4. Reduced to Writing. An oral prescription/order shall be immediately reduced to writing, in proper form, by the dispensing pharmacist with his signature.

5. Verification. A pharmacist shall verify the authenticity of a verbal Schedule II prescription/order.

6. Schedule Prescription Retrieval. A signed written Schedule II prescription/order, in proper form, shall be received from the practitioner within seven days.

7. Schedule II Prescriptions/Orders. Schedule II prescriptions are non-refillable.

8. Schedule II Drug Via Facsimile. A prescription written for a Schedule II controlled substance may be transmitted by the practitioner or the practitioner's agent to a pharmacy via facsimile equipment, provided that the original signed prescription is presented to the pharmacist for review prior to the actual dispensing of the controlled substance, except as noted in §3531.C.8.a and b.

a. A prescription written for a Schedule II narcotic substance to be compounded for direct administration to a patient by parenteral, intravenous, intramuscular, subcutaneous, or intraspinal infusion may be transmitted by the practitioner or his agent to the pharmacy by facsimile. The facsimile serves as the original written prescription.

b. A prescription written for a Schedule II narcotic substance for a hospice or terminally ill patient may be transmitted by the practitioner or his agent to the dispensing pharmacy by facsimile. The practitioner or his agent will note on the prescription that the patient is a hospice or terminally ill patient. The facsimile serves as the original written prescription.

9. Schedule II Drug/Partial Filling. A prescription written for a Schedule II controlled substance for a patient in a Long Term Care Facility (LTCF) or for a patient with a terminal illness may be filled in partial quantities. The pharmacist must record on the prescription whether the patient is terminally ill or an LTCF patient. For each partial filling, the dispensing pharmacist shall record on the back of the prescription (or on another appropriate record, uniformly maintained, and readily retrievable) the date of the partial filling, quantity dispensed, remaining quantity authorized to be dispensed, and the identification of the dispensing pharmacist. The total quantity of schedule II controlled substance dispensed in all partial fillings must not exceed the total quantity prescribed and must be executed within 60 days from the date of issue.

D. Schedule III/IV Prescriptions/Orders. Schedule III and IV prescriptions may be issued upon oral or written orders of an authorized practitioner.

1. Schedule III/IV Oral Prescriptions/Orders. Oral prescriptions/orders shall be promptly reduced to writing.

2. Refillable Schedule III/IV Prescriptions/Orders. Schedule III and IV prescriptions are refillable, with appropriate authorization.

3. Schedule III/IV Prescription Order Form. Schedule III and IV prescriptions shall conform to the following.

a. Authorized Practitioners Instructions—Refillable Authority. An authorized practitioner must orally approve or inscribe refillable instructions on the face of the prescription or order. In the absence of specific refill instructions, the prescription is non-refillable.

b. Refillable Prescription Period. Schedule III, IV, and V prescriptions shall not be refilled more than five times within six months of the date of issue. Schedules III, IV, and V prescriptions shall become null and void after six months or after five authorized refills, whichever comes first.

c. Schedule III/IV/V Prescription Refill Records. The pharmacist dispensing Schedule III, IV, and V prescriptions shall note on the reverse side of the original prescription refill information such as date, with quantity or variation of quantity

dispensed, and pharmacist's name or initials or the same notations shall be made into a computer system.

E. Schedule Prescription Drug Labeling. A schedule prescription label shall be affixed to a suitable container and exhibit the following information:

1. pharmacy name;
2. pharmacy address;
3. date filled or refilled;
4. serial number;
5. patient's name;
6. authorized prescriber's name;
7. drug name and strength;
8. direction;
9. pharmacist's last name and initial; and
10. federal transfer caution label.

F. Schedule V Drugs. Schedule V dispensing requires a prescription except for the following:

1. Schedule V Exempt Narcotics. Exempt narcotics are preparations dispensed without a prescription containing limited quantities of certain narcotic drugs dispensed by a licensed pharmacist, generally for antidiarrheal purposes, to a person of majority with suitable identification and the transaction properly recorded in a bound Schedule V Exempt Narcotic Book containing the name and address of purchaser, and name and quantity of exempt narcotic dispensed, with the date of sale and the dispensing pharmacist's name or initials.

2. Schedule V Exempt Preparation. An exempt narcotic transaction shall not exceed 240 cc/ml. (8 fluid ounces), or not more than 48 solid dosage units, which may be dispensed to the same person in any given 48-hour period, containing limited narcotic quantities with non-narcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone.

3. Exempt Narcotic Record. A bound Exempt Narcotic Book shall be maintained in the pharmacy for exempt Schedule V drugs sold, with purchaser's name and address, date of sale, name and quantity of exempt narcotic dispensed and the pharmacist's initials. The exempt narcotic book shall be maintained for a period of five years from the date of the last entered transaction, and shall be made available for board inspection.

4. Identification. The pharmacist must ascertain suitable identification of buyer and proof of age, when appropriate.

5. Authorized Dispensing. Schedule V exempt narcotic preparations must be dispensed by a pharmacist.

G. Schedule Prescription Files. Schedule prescription files must be maintained on premises.

1. Schedule II Prescription Files. Schedule II prescriptions shall be maintained separately from other prescription records and contain the name or initials of the pharmacist that dispensed the prescription.

2. Schedule III, IV, and V Prescription Files. Schedule III, IV, and V dispensed prescriptions may be filed separately, or, in the alternative, they may be filed in numerical sequence with either Schedule II prescriptions or with noncontrolled prescriptions. When filed with other prescriptions, Schedule III, IV and V prescriptions must be stamped with a red-inked

"C" at least one inch high in the lower right-hand corner of the prescriptions. However, if a pharmacy maintains computerized dispensing records, then the requirement to mark the hard copy prescription with a red "C" is waived. Dispensing pharmacists' name or initials and dispensing date shall be placed on the prescription.

3. Schedule III, IV, and V Prescription Files Maintenance. Schedule III, IV, and V prescription files must be maintained in a readily available and retrievable manner.

#### H. Record Keeping

1. Registrant must maintain readily retrievable, complete and accurate transaction records, as follows:

- a. DEA order forms;
- b. Schedule II receiving invoices shall be maintained separately. Schedule III, IV, and V receiving invoices may be maintained with general records and shall be readily retrievable;
- c. schedule drug prescription files;
- d. schedule drug inventories—initial, annual, and current.

2. Schedule Drugs Inventory Records. Schedule drug inventories must be complete and reflect an accurate accounting of schedule drug transactions.

a. Inventory Content. The inventory record shall reflect the following:

- i. an accurate schedule drug inventory shall comprise the drug name, strength, and correct accounting supported with invoices, prescriptions/orders, and/or transfers;
- ii. registrant's name;
- iii. registrant's DEA number;
- iv. inventory date;
- v. inventory period;
- vi. available prior inventory;
- vii. preparer's signature;
- viii. inventory records shall be maintained for five years.

b. Initial Inventory Record. An initial schedule drug physical inventory shall be conducted when the registrant commences to dispense schedule prescriptions.

c. Annual Inventory Records. A complete and accurate Schedule II drug physical inventory shall be conducted annually following the anniversary date of the initial inventory.

d. Biennial Inventory Record. An estimated Schedule III, IV, and V drug physical inventory shall be conducted biennially following the anniversary date of the initial inventory, unless the container holds more than 1,000 tablets or capsules in which case an exact inventory shall be made.

e. Schedule Drug Theft Inventory. A schedule drug inventory shall be conducted when there is a loss or theft of schedule drugs and reported to the Regional DEA office on DEA Form 106, and a copy sent to the board.

f. Business Termination Inventory. A schedule CDS inventory must be taken when a registrant's pharmacy is sold, exchanged, assigned, closed, or transferred, with a copy mailed to the board and the DEA.

g. Pharmacist-in-Charge Termination Inventory. A schedule drug inventory must be conducted by the outgoing

pharmacist-in-charge and verified by the incoming pharmacist-in-charge.

h. Schedule Drugs Central Records. Schedule Drug Central Records repository shall be permitted upon board and DEA approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1178.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 24:

Any person may submit data, views or positions orally or in writing to Fred H. Mills, Jr., Executive Director, 5615 Corporate Boulevard, Suite 8E, Baton Rouge, LA 70808, phone (504) 925-6496. Comments will be accepted through 4 p.m. on February 20, 1998.

Under the provisions of the Administrative Procedure Act, if a public hearing is necessary, it will be held from 10 a.m. to 12 noon, Wednesday, February 25, 1998, at the Board of Pharmacy Office, 5615 Corporate Boulevard, Suite 8E, Baton Rouge, LA 70808, phone (504) 925-6496.

Fred H. Mills, Jr.  
Executive Director

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Drug Prescriptions

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

The only cost associated with the implementation of the proposed LAC 46:LIII.3531 amendment will be the cost of printing and distribution of the new regulation. It is estimated that the *Louisiana Register* publication cost of \$300, printing cost of \$500, and postage for distribution is estimated at \$640; or, a total of \$1,440 will be expended in FY 97/98.

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

This proposed amendment would have no effect on any revenue collections for this board or any state or local governmental entity.

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

There are no economic benefits to be gained by this proposed regulation.

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

There will be no effect on competition or employment.

Fred H. Mills, Jr.  
Executive Director  
9801#022

Richard W. England  
Assistant to  
Legislative Fiscal Officer

### NOTICE OF INTENT

#### Department of Health and Hospitals Board of Pharmacy

Transmission of Prescriptions (LAC 46:LIII.1111)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and Pharmacy Law,

R.S. 37:1178, the Board of Pharmacy hereby gives notice to amend LAC 46:LIII.1111.

**Title 46  
PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part LIII. Pharmacists**

**Chapter 11. Pharmacies**

**§1111. Transmission of Prescriptions**

A. ...

1. - 2. ...

3. Electronic Transmission. A pharmacist may receive and dispense a bona fide prescription communicated from a practitioner, via facsimile or other means, and then reduce to hard copy if necessary. When receiving a prescription transmitted in this manner, the pharmacist must indicate on the hard copy the mode of transmission as well as the phone number of the practitioner making the transmission.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1178.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1311 (October 1997), amended LR 24:

Any person may submit data, views or positions orally or in writing to Fred H. Mills, Executive Director, 5615 Corporate Boulevard, Suite 8E, Baton Rouge, LA 70808, phone (504) 925-6496. Comments will be accepted through 4 p.m. on February 20, 1998.

Under the provisions of the Administrative Procedure Act, if a public hearing is necessary, it will be held from 10 a.m. to 12 noon, Wednesday, February 25, 1998, at the Board of Pharmacy office, 5615 Corporate Boulevard, Suite 8E, Baton Rouge, LA 70808, phone (504) 925-6496.

Fred H. Mills, Jr.  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Transmission of Prescriptions**

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

The only cost associated with the implementation of the proposed amendment of LAC 46:LIII.1111 will be the cost of printing and distribution of the new regulation. It is estimated that the *Louisiana Register* cost of \$300; printing cost of \$500; and postage for distribution estimated at \$640; or a total of \$1,440 will be expended in FY 97/98.

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

This proposed amendment would have no effect on any revenue collections for this board or any state or local governmental entity.

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

There are no economic benefits to be gained by this regulation.

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

There will be no effect on competition or employment.

Fred H. Mills, Jr.  
Executive Director  
9801#021

Richard W. England  
Assistant to the  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Veterinary Medicine**

Boarding and Nonboarding Animals  
(LAC 46:LXXXV.700 and 702)

The Board of Veterinary Medicine proposes to amend LAC 46:LXXXV.700 and 702 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Veterinary Practice Act, R.S. 37:1518 et seq.

The proposed amendments define the care that may be provided to boarding and nonboarding animals by Registered Veterinary Technicians (RVT) and lay persons with and without the direct supervision of a licensed veterinarian, as well as clearly stating the ultimate responsibility the licensed veterinarian has for the proper diagnosis and treatment of the animal. Under current rules, there are very few tasks that can be performed by RVTs and/or lay persons without a licensed veterinarian on the premises. The proposed rule is intended to provide more flexibility to veterinarians in providing for care of animals who are boarded or hospitalized while at the same time maintaining adequate standards of care.

**Title 46  
PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part LXXXV. Veterinarians**

**Chapter 7. Veterinary Practice**

**§700. Definitions**

\*\*\*

*Boarding Animal*—an animal which is being housed at a veterinary facility and is not actively undergoing diagnosis or treatment for illness. A boarding animal which becomes ill while in a veterinary facility ceases to be a boarding animal under this definition.

\*\*\*

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1328 (October 1993), amended LR 20:1381 (December 1994), LR 24:

**§702. Direct Supervision**

A. - C. ...

D. A Registered Veterinary Technician (RVT) as defined in §700 shall perform all tasks or procedures under direct supervision of a licensed veterinarian, except:

1. an RVT may perform the duties listed in §702.F.1 without the direct supervision of a licensed veterinarian, but the RVT is required to follow the record keeping requirements found in §702.F.3; and

2. an RVT may administer medications and/or treatments to nonboarding (hospitalized or ill) animals without direct supervision by a licensed veterinarian under the following conditions:

a. the licensed veterinarian must chart the precise treatment plan to be used in the animal's medical record. This treatment plan may include oral, topical, and injectable treatments, including fluid therapy;

b. no diagnostic decisions or treatment changes may be made by an RVT;

c. the licensed veterinarian must personally check the animal and update the treatment plan at least once every 24 hours;

d. the licensed veterinarian has the ultimate responsibility for the proper diagnosis and treatment of the animal, including the work delegated to the RVT;

e. the licensed veterinarian has the responsibility to verify that any person who is assigned duties under §702 is legally licensed in Louisiana as an RVT. Failure to verify this information shall be considered unprofessional conduct within the meaning of R.S. 37:1526;

f. if the animal's medical condition changes, the licensed veterinarian must be available for consultation and reevaluation of the animal.

E. ...

F. A lay person shall perform all tasks or procedures under direct supervision of a licensed veterinarian under the following conditions and with the exception described in §702.F.1:

1. a lay person may administer medications to boarding animals without direct supervision by a licensed veterinarian if the medication is directed to be used orally or topically and if the licensed veterinarian has recorded the exact treatments to be given in the animal's medical record;

2. when a lay person administers medications to nonboarding animals under the direct supervision of a licensed veterinarian, the licensed veterinarian must personally check the animal and update the treatment plan in the medical record at least once every 24 hours;

3. when a lay person administers medications, with or without direct supervision, the lay person shall keep a written record of all treatments which are performed, and that written record shall be incorporated into the animal's medical record;

4. the licensed veterinarian has the ultimate responsibility for the proper diagnosis and treatment of the animal, including the work delegated to a lay person.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Veterinary Medicine, LR 8:65 (February 1982), amended by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:225 (March 1990), LR 19:1328 (October 1993), LR 24:

Interested parties may submit written comments to Charles B. Mann, Executive Director, Board of Veterinary Medicine, 263 Third Street, Suite 104, Baton Rouge, LA 70801. Comments will be accepted through the close of business on February 26, 1998.

A public hearing on the proposed changes will be held on February 26, 1998, at 9 a.m. at the office of the Board of Veterinary Medicine, 263 Third Street, Suite 104, Baton Rouge, LA. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

Charles B. Mann  
Executive Director

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: Boarding and Nonboarding Animals

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

There will be no costs or savings to state or local governmental units, except for those associated with publishing the amendments (estimated \$160). The veterinary profession will be informed of this proposed rule change via the board's regular newsletter, which is already a budgeted cost of the board.

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

There will be no effect on revenue collections of state or local governmental units. There will be no revenue impact as no increase in fees will result from these amendments.

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

Licensed veterinarians, registered veterinary technicians, and lay persons employed by the veterinarians will be affected by the proposed action. However, no costs are anticipated to affect these persons unless a licensed veterinarian chooses to hire a registered veterinary technician in light of the RVT's authorization to administer medications and/or treatments to nonboarding animals without direct supervision under the conditions prescribed in the amendments. There is no requirement for a licensed veterinarian to hire an RVT.

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

No impact on competition and employment is anticipated as a result of the proposed rule changes, although RVTs may find some increased employment opportunities because of the slightly expanded authority these proposed amendments give them.

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