

# Rules

## RULE

### Department of Agriculture and Forestry Office of the Commissioner

Agricultural Commodity Dealer and Warehouse Law  
(LAC 7:XXVII.101-149) and  
Self-Insurance Program (LAC 37:IX.101-123)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Office of the Commissioner amends regulations governing the Agricultural Commodities Commission to reflect changes necessary due to the passage of Act 1034 of the Regular Session of 1997.

The amendments correct technical and typographical errors and integrate necessary changes in the existing rules to reflect the passage of Act 1034 of 1997 to include "cotton" as a regulated "agricultural commodity" and "cotton merchant" as a regulated entity under the Agricultural Commodity Dealer and Warehouse Law. Additionally, changes to Title 37, Insurance, Part IX, "Agricultural Commodity Commission" require revisions to reflect the addition of "cotton merchants" as possible participants in the "Agricultural Commodity Commission Self-Insurance Program."

#### Title 7

#### AGRICULTURE AND ANIMALS

#### Part XXVII. Agricultural Commodity Dealer and Warehouse Law

#### Chapter 1. Agricultural Commodities Commission

#### Subchapter A. General Provisions

#### §101. Definitions

\* \* \*

*Agricultural Commodities*—sugar, all agricultural products commonly classed as grain (rice, corn, wheat, oats, rye, soybeans, barley, milo, and grain sorghum), and any other agricultural commodity which the commission may declare to be an agricultural commodity subject to regulation under the Act.

\* \* \*

*Cotton Agent*—every person, firm, corporation, association, or other legal entity which purchases or contracts to purchase cotton grown or to be grown by producers in this state for or on behalf of a cotton merchant and which is required to be a party to a notarized written agency agreement.

*Cotton Merchant*—every person, firm, corporation, association, or other legal entity which purchases or contracts to purchase, either directly or through a cotton agent, cotton grown or to be grown by producers in this state.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3403, R.S. 3:3404, R.S. 3:3406 and R.S. 3:3405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:287 (May 1983), amended LR

12:287 (May 1986), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 19:1299 (October 1993), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:624 (April 1998).

#### §103. Administration of the Affairs of the Commission

A. The officers of the commission shall be a chairman and a vice-chairman, who shall serve for terms concurrent with the commissioner, but may be elected for an indefinite number of terms.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3403, R.S. 3:3404, R.S. 3:3406 and R.S. 3:3405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:287 (May 1983), amended LR 12:287 (May 1986), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:624 (April 1998).

#### §105. Agricultural Commodities and Other Farm Products Regulated by the Commission

A. The following agricultural commodities shall be regulated by the commission at all times.

\* \* \*

#### 3. Cotton

\* \* \*

D. Warehouses storing cotton are not required to be governed by these regulations.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3402 and R.S. 3:3405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:288 (May 1983), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 19:1300 (October 1993), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:624 (April 1998).

#### Subchapter B. Application for Warehouse, Cotton Merchant, and Grain Dealer License

#### §107. Application for License (Initial and Renewal); Time for Filing; Contents; Fees; Style of Document

A. Applications for renewal of warehouse, cotton merchant and grain dealer licenses must be filed no later than April 30 of each year. Applications for initial license may be filed at any time during the year. For both initial and renewal licenses, the following information must be furnished on the application form provided by the commission:

\* \* \*

#### 25. Cotton applicants only:

a. name and written, notarized agency agreements of cotton agents buying cotton in the state.

b. application for acceptance into the self-insurance fund, if applicable.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3408, R.S. 3:3409, R.S. 3:3410, R.S. 3:3411 and R.S. 3:3405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:289 (May 1983), amended LR 10:75 (February 1984), LR 11:229 (March 1985), LR 12:287 (May 1986), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 19:1300 (October 1993), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:624 (April 1998).

**§109. Grounds for Refusal to Issue or Renew a Warehouse, Cotton Merchant, or Grain Dealer License**

A. The commission may refuse to issue or renew a warehouse, cotton merchant, or grain dealer license in any of the following circumstances:

\* \* \*

3. the applicant cannot demonstrate a \$100,000 net worth.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3412, and R.S. 3:3405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:293 (May 1983), amended LR 12:287 (May 1986), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:625 (April 1998).

**§141. Records Required to be Maintained**

Each grain dealer, cotton merchant and warehouse shall maintain the following records, when applicable to the commodity stored or traded, on a current basis in the company's principal office in this state at all times:

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3419, R.S. 3:3414.3 and R.S. 3:3405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:309 (May 1983), amended LR 12:288 (May 1986), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:625 (April 1998).

**§145. Access Requirements**

\* \* \*

B. The warehouseman, cotton merchant, or grain dealer shall provide the necessary assistance required for any inspection, examination, and/or audit made in accordance with the Act.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3406, R.S. 3:3414.3, R.S. 3:3405 and R.S. 3:3419.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:310 (May 1983), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:625 (April 1998).

**§149. Adjudication Required Prior to Suspension/Revocation of License or Imposition of Other Penalties; Amount of Penalties; Surrender of License**

\* \* \*

I. Whenever the commission suspends or revokes a warehouse, cotton merchant, or grain dealer license, the former licensee must immediately surrender the original and all copies of the license.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405 and R.S. 3:3422.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:312 (May 1983), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 19:1303 (October 1993), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:625 (April 1998).

**Title 37  
INSURANCE**

**Part IX. Agricultural Commodity Commission**

**Chapter 1. Self-Insurance Fund**

**§101. Definitions**

As used in this Part:

*Applicant*—any person, firm, corporation, or other legal entity seeking the issuance of a warehouse license, cotton merchant, or grain dealer license from the commission or a renewal thereof.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3410.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 13:234 (April 1987), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 19:1303 (October 1993), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:625 (April 1998).

**§105. Purpose**

The self-insurance fund is established to guarantee the faithful performance of all duties and obligations of licensed grain dealers, cotton merchants, and licensed warehouses to agricultural producers and holders of state warehouse receipts for agricultural commodities and previous holders of state warehouse receipts released in trust in order to have commodity shipped (open storage), included but not limited to Commodity Credit Corporation, banks and lien holders, provided however that this fund does not apply to federal warehouses with regard to the requirements for federal warehouse license and bond.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3410.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 13:234 (April 1987), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 19:1303 (October 1993), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:625 (April 1998).

**§107. Fees**

\* \* \*

B. Each applicant for a warehouse license and/or cotton merchant and/or a grain dealer license who participates in the self-insurance fund shall be assessed an annual fee for participation in the self-insurance program. Said fee must accompany the application for a license, and is not refundable unless the license application or renewal is denied and, in that event, the fee will be refunded on a pro rata basis with the

commission retaining a proportionate amount for any period during which coverage was provided to the applicant.

\* \* \*

D. The amount of the annual fee shall be \$500 for a grain dealer or cotton merchant licensee. The annual fee for a warehouse licensee shall be determined first by calculating the amount of bond required of a license under R.S. 3:34010(C) and (D). If the required bond is \$25,000, then the fee shall be \$135. If the required bond is over \$25,000, then the fee shall be \$135 plus \$4 per each additional \$1,000 of coverage required.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3410.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 13:234 (April 1987), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 19:1304 (October 1993), amended by the Department of Agriculture, Office of the Commissioner, LR 24:625 (April 1998).

**§109. Insurance Coverage**

\* \* \*

1. Each licensed grain dealer or cotton merchant shall be insured in the total aggregate amount of \$50,000 for all claims in each licensed year;

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3410.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 13:234 (April 1987), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:626 (April 1998).

**§123. Prohibited Acts; Criminal Penalties**

\* \* \*

B. Any warehouse, cotton merchant or grain dealer licensee who intentionally provides the commission with false information regarding a claim, or regarding any other matters pertaining to the self-insurance program, shall be subject, upon conviction, to penalties for perjury established under R.S. 14:123.

C. Any warehouse, cotton merchant, or grain dealer licensee who intentionally provides the commission with false information regarding a claim, or regarding any other matters pertaining to the self-insurance fund, shall be subject to a fine of up to \$10,000, imprisonment for not more than 10 years, or both, for each occurrence proven at a hearing conducted in accordance with Chapter 13 of Title 49 of the Revised Statutes.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3410.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 13:234 (April 1987), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 19:1305

(October 1993), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:626 (April 1998).

Bob Odom  
Commissioner

9804#017

**RULE**

**Department of Agriculture and Forestry  
Office of the Commissioner**

**Registration Fee Rebates (LAC 7:I.201-205)**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Office of the Commissioner adopts regulations governing rebates of registration fees on pesticides for pesticide manufacturers.

The commissioner finds that in order to promote and protect Louisiana agriculture and products it is appropriate and expedient to permit pesticide manufacturers to apply for a rebate of the pesticide registration fee and to receive such rebate under those circumstances provided for in these rules.

**Title 7**

**AGRICULTURE AND ANIMALS**

**Part I. Administration**

**Chapter 2. Rebates of Registration Fees**

**§201. Findings**

The commissioner of Agriculture and Forestry has the duty and authority to promote, protect, and advance Louisiana agriculture and to promote the building of Louisiana using Louisiana products. The constitution and laws of Louisiana grant the commissioner this authority both generally and particularly. Among the particular subject matters entrusted to the commissioner for the foregoing objectives is the regulation of pesticides. The preservation of a safe supply of pesticides and of the local capacity to manufacture pesticides is essential to maintain agricultural production year after year while some pestilences subside as new ones arise. Although registering labels of pesticides serves the above stated objectives, the pesticide registration fees the Department of Agriculture and Forestry charges for such registration may in some cases impose a burden that impairs the above stated objectives. The commissioner finds that in order to promote and protect Louisiana agriculture and Louisiana products it is appropriate and expedient to permit pesticide manufacturers to apply for a rebate of the pesticide registration fee and to receive such rebate under those circumstances provided for in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with La. Const. Art. 4 §10; and R.S. 3:2(A), 3(B), 14(B), 1652, 1732, and 3203 (A).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:626 (April 1998).

**§203. Application**

A pesticide manufacturer having paid the pesticide registration fee required by R.S. 3:3221(A) may make written application to the Department of Agriculture and Forestry on a form provided by said department for a rebate of not more than 50 percent of each pesticide registration fee paid by the pesticide manufacturer. This application must be submitted:

1. at the time of registration; or
2. at any time on or before December 31 of the year of registration, or
3. prior to July 1, 1998 where the application is for a rebate of a pesticide registration fee paid in 1997.

**AUTHORITY NOTE:** Promulgated in accordance with La. Const. Art. 4 §10; and R.S. 3:2(A), 3(B), 14(B), 1652, 1732, and 3203(A).

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner LR 24:627 (April 1998).

**§205. Issuance of Rebates**

Upon receipt of a written application for a rebate of the pesticide registration fee, the commissioner may grant a rebate of not more than 50 percent of each pesticide registration fee and thereafter may rebate same to the pesticide manufacturer if the commissioner finds, based upon the application submitted by the pesticide manufacturer, public records and facts subject to official notice, that:

1. the pesticide registration fee is likely to impose a hardship or undue burden on the pesticide manufacturer; and
2. the operations of the pesticide manufacturer substantially benefit the economy of Louisiana and employment therein; and
3. the pesticide manufacturer maintains and utilizes an active Environmental Protection Administration pesticide producer establishment number which shall be exhibited on each label of pesticide for which a rebate is being requested; and
4. the pesticide manufacturer registered 20 or more products in the current year or registered the same number of products as in the previous year plus two or more new registrations.

**AUTHORITY NOTE:** Promulgated in accordance with La. Const. Art. 4 §10; and R.S. 3:2(A), 3(B), 14(B), 1652, 1732, and 3203(A).

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner LR 24:627 (April 1998).

Bob Odom  
Commissioner

9804#019

**RULE**

**Department of Agriculture and Forestry  
Office of Marketing  
Market Commission**

Meat, Poultry and Seafood Grading and  
Certification (LAC 7:V.Chapter 16)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of

Agriculture and Forestry, Office of Marketing, Market Commission adopts regulations governing certification and inspection of all meat, poultry and seafood products at state institutions and local school districts. These rules comply with and are enabled by R.S. 3:3101 et seq.

No preamble concerning the rules is available.

**Title 7**

**AGRICULTURE AND ANIMALS**

**Part V. Advertising, Marketing and Processing**

**Chapter 16. Meat, Poultry and Seafood Grading and Certification Program**

**§1601. Authority**

The Market Commission adopts the following regulations under the authority of R.S. 3:405 and R.S. 3:410 for the purpose of implementing the provisions of R.S. 39:2101 enacted by Act 749 of the Louisiana Legislature, 1997 Regular Session.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 3:405, R.S. 3:410 and R.S. 39:2101.

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 24:627 (April 1998).

**§1603. Definitions**

The terms defined in §1603 have the meaning given to them herein, for purposes of these regulations, except where the context expressly indicates otherwise.

*Certification*—a document or a stamp applied to any package containing any meat, poultry or seafood food product, which verifies that the food product meets the specification requirements established by the department.

*Commission*—the State Market Commission.

*Commissioner*—commissioner of the Department of Agriculture and Forestry.

*Department*—the Department of Agriculture and Forestry.

*Food Product*—any edible item which includes, 3 percent or more by weight, meat, poultry or seafood, and, regardless of whether it is raw, precooked or fully cooked, is capable of use as human food.

*Food Service Facility*—any place where a food product is prepared, packaged or served in portions designed for individual consumption by people. The term includes any such place regardless of whether consumption is on or off the premises and regardless of whether there is a charge for the food.

*Grade*—the combined group of standards that a food product must meet to be in accordance with the appropriate certification requirements.

*Local School District*—any elementary or secondary school system operated by any parish, city or other public school board and any public charter school or any other independent public school authorized by the Louisiana Department of Education.

*Meat*—any part of any cattle or other bovine, swine, sheep, or goat capable of use as human food.

*Person*—any individual, corporation, partnership, association, or any other legal entity, whether for profit or nonprofit, who, through contract with the state of Louisiana, any state agency, any state institution or local school district operates a food service facility that supplies, provides or serves food products available for consumption by any student,

resident, patient or inmate of any state agency, state institution or local school district.

*Poultry*—any part of any chicken, turkey, duck, goose or other domesticated fowl, quail, pheasant, ostrich, emu, or other ratites, or any other type of bird, eggs and domesticated rabbits capable of use as human food.

*Public Entity*—any state agency, state institution, local school district or person operating one or more food service facility that supplies, provides or serves food products available for consumption by any student, resident, patient or inmate of any state agency, state institution or local school district.

*Seafood*—any fresh or salt water finfish, farm-raised catfish, shrimp, crawfish, lobsters, oysters and all other edible shellfish, crustaceans, and mollusks, alligators, frogs, turtles and any other form of edible aquatic animal life regardless of whether farm raised or caught in privately owned waters or public waters including the sea, streams and lakes.

*State Agency*—any board, commission, department, agency, special district, authority or other entity performing a state function.

*State Institution*—any university, college or center of higher learning, hospital, clinic, veterans or geriatric home, mental institution, juvenile facility, prison or any other facility operated by a state agency, or through a contract with the state of Louisiana or any state agency, by any private, whether for profit or nonprofit, individual, corporation, association or other legal entity for the purpose of teaching, treating, incarcerating, maintaining or housing students, residents, patients or inmates.

*Vendor*—any individual, corporation, partnership, association or other legal entity that sells any type of food product to any state agency, state institution, local school district or person operating a food service facility, as defined herein, that supplies, provides or serves food products available for consumption by any student, resident, patient or inmate of any state agency, state institution or local school district.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405, R.S. 3:410 and R.S. 39:2101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 24:627 (April 1998).

#### **§1605. Use of Certified Food Products; Issuance of Certification; Exemptions**

A. All public entities shall utilize only the following food products:

1. meat and meat products governed by the grading and certification requirements set out in Title 7, Part V, Chapter 5 of the *Louisiana Administrative Code*;

2. poultry and eggs governed by the grading and certification requirements set out in Title 7, Part V, Chapter 9 of the *Louisiana Administrative Code*;

3. all other food products that meet the certification standards set out in these regulations.

B. Any public entity may request from the department the authority to conduct the inspection and certification (self-certification) required by these regulations of food products received by that public entity.

C. The department shall inspect and certify food products subject to these regulations purchased or received by a public entity unless that public entity has authorization from the department to conduct self-certification.

D. Neither the department nor any public entity shall certify any food product unless and until the food product meets all the requirements for certification under these regulations.

E. Meat and meat products governed by the grading and certification requirements set out in Title 7, Part V, Chapter 5 of the *Louisiana Administrative Code* and poultry and eggs governed by the grading and certification requirements set out in Title 7, Part V, Chapter 9 of the *Louisiana Administrative Code* are exempt from the provisions of these regulations.

F. These regulations shall not affect or change any other grading or certification program operated by the department under any other provision of law or any other regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405, R.S. 3:410 and R.S. 39:2101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 24:628 (April 1998).

#### **§1607. Grading and Certification Standards and Specifications**

A. Meat and meat food products, other than those governed by the grading and certification requirements set out in Title 7, Part V, Chapter 5 of the *Louisiana Administrative Code* shall meet the following grading and certification standards and specifications:

1. fresh meat should not have any offensive odor or be slick to the touch;
2. frozen meat should be hard frozen at the time of delivery; and
3. the bid specifications or purchase order issued by the public entity.

B. Eggs shall meet the following grading and certification standards and specifications:

1. The following information must be on all egg cases if eggs are packed loose and on all cartons when eggs are packed in cartons:

- a. name of producer or packer;
- b. grade and size;
- c. date of pack;
- e. Louisiana license number [La 001];
- f. keep refrigerated 45EF or below.

2. Eggs cannot be used if more than 30 days of age from pack date. Pack date can be either Julian or calendar date.

3. Eggs must be delivered in refrigerated trucks capable of maintaining an ambient temperature of 45EF stored in coolers that maintain an ambient temperature of 45E F.

4. If eggs are not USDA or state graded, or if more than 10 days have elapsed between the time of inspection and delivery, the public entity must ascertain that the eggs meet all requirements set forth in Title 7, Part V, Chapter 9 of the *Louisiana Administrative Code*.

C. Poultry and poultry food products, other than those governed by the grading and certification requirements set in Title 7, Part V, Chapter 9 of the *Louisiana Administrative Code*, shall meet following grading and certification standards and specifications:

1. frozen poultry must be hard frozen at time of delivery;
2. fresh poultry should not have any offensive odors and should not be slick to the touch;
3. if grade is implied or stated, the USDA shield must be used; and
4. the bid specifications or purchase order issued by the public entity.

D. Seafood food products shall meet one or more of the following grading and certification standards and specifications:

1. United States Department of Commerce standards for any type of aquatic animal life defined as seafood in these regulations;
2. State of Louisiana, Division of Administration, State Purchasing general requirements for fish and fishery product;
3. standards and specifications set by the appropriate division of the department's grading and certification service for the particular seafood product;
4. the bid specifications or purchase order issued by the public entity;
5. fresh seafood shall not have any offensive odors or be slick to the touch.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405, R.S. 3:410 and R.S. 39:2101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 24:628 (April 1998).

**§1609. Procurement of Food Products**

A. No public entity shall procure any food products unless and until it has fully complied with the provisions of R.S. 38:2184 and R.S. 38:2251-2261.

B. Neither the department nor any public entity shall issue a certification for any food product purchased by such public entity unless and until the public entity provides proof of full compliance with the provisions of R.S. 38:2184 and R.S. 38:2251-2261.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405, R.S. 3:410 and R.S. 39:2101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 24:629 (April 1998).

**§1611. Inspection and Certification by a Public Entity; Procedures**

Any public entity that has authorization from the department to conduct self-certifications under these regulations shall do so in the following manner:

1. All food products shall be inspected and certified by the public entity at the time of delivery.
2. The public entity shall provide sufficient trained or experienced personnel to ensure that all products are inspected and certified in accordance with these regulations.
3. The public entity shall maintain certification logs, in a form acceptable to the department, showing the self-certification of all food products received by the public entity. Each delivery of a food product shall be logged at the time of self-certification. Each log book shall be made available for inspection when requested by authorized representatives of the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405, R.S. 3:410 and R.S. 39:2101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 24:629 (April 1998).

**§1613. Inspection and Certification by the Department; Procedures**

Inspections and certifications performed by the department under these regulations shall proceed in the following manner.

1. Vendors, both in state and out of state, shall make all food products available to the department's grading and certification service in an approved facility for certification prior to shipment to the place of final destination, except for out-of-state shipments made directly to a storage facility owned and operated by a public entity. Such direct out-of-state shipments shall be inspected at the receiving storage facility before distribution to any food service facility.

2. Any vendor, public entity needing certification services shall notify the department at least 24 hours in advance of need and shall provide such services as necessary to expedite the examination and certification of the food product and the taping of containers, including providing the necessary tape.

3. The department shall receive a purchase order at least seven working days prior to the department's inspection for the purposes of issuing a final certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405, R.S. 3:410 and R.S. 39:2101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 24:629 (April 1998).

**§1615. Fees and Costs**

A. The commission may collect fees for the inspection and certification of food products. The fees shall not exceed the actual cost necessary to provide for the proper inspection, grading, classification and certification of the food products.

B. Any vendor delivering a food product inspected and certified under these regulations shall pay an inspection fee of \$.025 per pound for each such meat, poultry or seafood product, or in the case of eggs, a fee of \$.025 per dozen. All fees and costs shall be immediately due and payable to the department upon presentation to the vendor by the department of the statement for services rendered.

C. Any public entity performing self-certification under these regulations shall receive compensation from the department for such services in the amount of \$.02 per pound for each meat, poultry or seafood product, or in the case of eggs, a fee of \$.02 per dozen for each food product inspected and certified by the public entity. Payment to the public entity shall be made by the department promptly upon the department's receipt of payment from the vendor.

D. Any vendor, state agency, state institution, local school district or person needing certification services from the department and failing to notify the department at least 24 hours in advance of need shall be subject to a penalty of \$50, regardless of the time required for the services or the fees assessed by the department.

E. Fees charged and collected by the department under any other grading or certification program operated by the department shall not be affected by these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405, R.S. 3:410 and R.S. 39:2101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 24:629 (April 1998).

**§1617. Enforcement**

A. The department or its authorized representative shall have the right to enter any place where any food product is kept to inspect the food product and to inspect any records pertaining to the sale, procurement, movement, distribution, preparation or serving of any food product subject to self-certification under these regulations.

B. If the department finds that a public entity authorized to inspect and certify food products under these regulations is not inspecting and certifying each delivery of food products received by the public entity or if the department finds that the public entity has, on three or more occasions, improperly inspected or certified food products then the department may, by written order, take over inspection and certification duties from the public entity until the department determines that the public entity will properly inspect and certify food products in accordance with these regulations.

C. If a vendor is found to be out-of-compliance more than three times during a given quarter, then that vendor's products must be inspected for compliance by the Louisiana Department of Agriculture before delivery of any product. Once the vendor has proven to the satisfaction of the department that his product will be in compliance, then the vendor may deliver directly to the institution for certification by the institution.

D. The department or its authorized representative may, while enforcing the provisions of these regulations, issue and enforce a written, printed or stamped stop order to prevent the purchase, procurement, movement, distribution, preparation or serving of any food product if:

1. authorized representative of the department has been refused the right to enter the premises where the food product is kept or the right to inspect the food product or records;

2. the food product does not meet the grading and certification standards established by these regulations; or

3. the food product was procured in violation of §1609.A.

E. Upon issuance of a stop order the department may cause the food product to:

1. remain where it is located at the time the stop order is issued; or

2. be returned to the distributor or vendor of the food product.

F. The stop order may be released by the commissioner when:

1. the food product is found to meet the certification standards set out in these rules if the stop order was issued because the department had not certified the food product;

2. proof of compliance with §1609.A is furnished to the department if the stop order was issued because of noncompliance or failure to produce proof of compliance;

3. authorized representative of the department has been allowed to enter the premises where the food product is stored and inspect the food product or the records if the stop order was issued based on refusal to allow entry or inspection;

4. written proof acceptable to the department is supplied showing that the food product has been returned to the distributor or seller and that the full purchase price of the food product has been refunded to the purchaser; or

5. the department determines that circumstances warrant the release of the stop order, upon such terms and conditions that the department deems necessary or proper.

G. Nothing in these regulations shall prevent the commissioner or the department from seizing, selling or destroying the food product if the department finds that the food product violates any other state law or regulation allowing any such action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405, 410, 413 and R.S. 39:2101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 24:630 (April 1998).

**§1619. Penalty for Violations; Injunctive Relief; Costs; Notification**

A. Whoever violates R.S. 39:2101 or the regulations promulgated thereunder shall be fined not less than \$25 nor more than \$500 or imprisoned for not less than 10 days nor more than six months, or both as provided by R.S. 3:419.

B. Each violation of these rules and regulations, any stop order or other orders issued by the commissioner in the enforcement of these rules and regulations and every day of a continuing violation shall be considered a separate and distinct violation chargeable under these rules and regulations.

C. The commission, through the commissioner, may apply for injunctive relief restraining violations of R.S. 39:2101 or the regulations promulgated thereunder or institute necessary actions for failure to pay accounts due the commission. The person condemned in any such proceeding shall be liable for the costs of court and for any additional costs incurred by the commission in gathering the necessary evidence, including reasonable attorney fees and expert witness fees.

D. In addition to the penalties stated in §1619.A and B the commission may withhold certification services from any vendor, or the right of a public entity to conduct self-certification based on an adjudicatory hearing held in accordance with the Administrative Procedure Act and presided over by a hearing officer appointed by the commissioner.

E. If any food product cannot be certified by the department for any reason or if certification services are withheld then notification of the noncertification or withholding of the services and the reasons therefor shall be sent by the department to all appropriate entities including, but not limited to, the affected public entity, the purchasing agent, appointing authority, Division of Administration, inspector general, legislative auditor or district attorney.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405, 410, 413 and R.S. 39:2101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 24:630 (April 1998).

Bob Odom  
Commissioner

9804#013

**RULE**

**Department of Agriculture and Forestry  
Structural Pest Control Commission**

**Wood Destroying Insect Report (LAC 7:XXV.121)**

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Structural Pest Control Commission amends regulations regarding completing the Wood Destroying Insect Report form. These rules comply with and are enabled by R.S. 3:3370.

This amendment changes the word "adjacent" to a definitive "12" inches around a structure being inspected. The minimum specifications now require that wood infested with wood destroying insects under or within 12 inches of the structure be noted on the form.

No preamble regarding these rules is available.

**Title 7**

**AGRICULTURE AND ANIMALS**

**Part XXV. Structural Pest Control**

**Chapter 1. Structural Pest Control Commission**

**§121. Wood Destroying Insect Report**

\* \* \*

C. Regulations for completing wood destroying insect reports (LPCA-142). The following numbered sections correspond to the numbered sections on WDIR Form LPCA-142. LPCA-142 shall be completed as follows:

\* \* \*

13. Make no marks in this section.

a. If any of the conditions listed in this paragraph on the WDIR (LPCA-142) are present under or to within 12 inches of the inspected structure(s), list them in section #10 of this report.

\* \* \*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 3:3366.

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 12:285 (May 1986), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 23:856 (July 1997), LR 24:631 (April 1998).

Bob Odom  
Commissioner

9804#018

**RULE**

**Board of Elementary and Secondary Education**

**Bulletin 1196—Food and Nutrition  
Programs—Sale of Snack Concessions**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended Bulletin 1196, Section 4.19. The bulletin is referenced in LAC 28:I.913. The amendment concerns the sale of snack food concessions during the lunch period.

**4.19 Competitive Foods**

Grades K-6. Reimbursement for lunch, special milk, and/or breakfast may be withheld from schools if concessions, canteens, snack bars, or vending machines are operated on a profit basis before the end of the last lunch period. Such services are operated for profit if the income is not deposited to the nonprofit school food service program, and expended only for the purpose of the Child Nutrition Program(s).

Grades 7-12. Reimbursement for lunch, breakfast, and/or special milk may be withheld from schools if concessions, canteens, snack bars, vending machines or other food sales are operated on a profit basis before the last 10 minutes of each lunch period. The official school schedule shall indicate the time for each lunch period and should allow sufficient time for each student to receive and consume a meal. Such services are operated for profit if the income is not deposited to the nonprofit school food service program account, and expended only for the purpose of the Child Nutrition Program(s).

However, grades 7-12 (not allowed in K-6) with multiple lunch periods may operate concessions, canteens, snack bars, vending machines, or other food sales between lunch periods if the following guidelines are implemented:

1. No food item shall be sold before the last 10 minutes in each lunch period.

2. Lunch periods shall be divided by a period of time so that students from one period do not come into contact with students from another period.

3. A system shall be in place to ensure that students do not have access to competitive foods before the last 10 minutes of each lunch period.

The School Food Authority shall be required to reimburse the School Food Service account for any funds withheld for violation(s) of the Competitive Foods Policy. Under no circumstances can foods in competition be sold to children in food service areas during the lunch period(s).

This policy will be managed and monitored by both the local school food service director as well as the state.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 24:631 (April 1998).

Weegie Peabody  
Executive Director

9804#068

**RULE**

**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) adopts rules for the Tuition Opportunity Program for Students (TOPS). In accordance with R.S. 17:3021-3036,

the Louisiana Student Financial Assistance Commission adopts the following rule governing the Scholarship and Grant Programs administered by the commission. The purpose of this 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 24:632 (April 1998).

**§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 24:632 (April 1998).

**§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 24:632 (April 1998).

**§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 24:632 (April 1998).

**§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 24:632 (April 1998).

**§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 24:632 (April 1998).

**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
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;

b. 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:

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

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 24:632 (April 1998).

## **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 24:635 (April 1998).

### **§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 24:635 (April 1998).

### **§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 24:635 (April 1998).

### **§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 24:635 (April 1998).

## **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 24:635 (April 1998).

### §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 24:636 (April 1998).

### **§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 24:637 (April 1998).

## **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 24:637 (April 1998).

### **§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 24:637 (April 1998).

#### **§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 24:638 (April 1998).

#### **§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 24:638 (April 1998).

#### **§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 24:638 (April 1998).

#### **§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, Deferment 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 24:638 (April 1998).

## **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 24:639 (April 1998).

### **§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 24:639 (April 1998).

#### **§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 24:640 (April 1998).

#### **§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 24:640 (April 1998).

#### **§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 24:640 (April 1998).

#### **§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 24:640 (April 1998).

### **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 24:641 (April 1998).

#### **§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 24:641 (April 1998).

### **§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 24:642 (April 1998).

## **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 24:642 (April 1998).

### **§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 24:642 (April 1998).

## **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 24:642 (April 1998).

**§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:

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

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

By cross multiplying,

$$5X = 12; X = 2.40$$

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 24:643 (April 1998).

### §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 24:644 (April 1998).

## **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 24:645 (April 1998).

### **§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 24:645 (April 1998).

## **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 24:646 (April 1998).

### **§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 preexisting 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 24:647 (April 1998).

### **§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 24:649 (April 1998).

### **§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 24:649 (April 1998).

**§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 24:650 (April 1998).

Jack L. Guinn  
Executive Director

9804#022

## RULE

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

Chemical Accident Prevention  
(LAC 33:III.5901)(AQ170\*)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air Quality Division Regulations, LAC 33:III.5901 (AQ170\*).

This rule is identical to federal law or regulation, 62 FR 45129-45132 (August 25, 1997) and 63 FR 639-645 (January 6, 1998), 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 rule. Therefore, the rule is promulgated in accordance with R.S. 49:953(F)(3) and (4). This 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.

The rule amends the Chemical Accident Prevention rule to include the recently adopted changes to the Environmental Protection Agency's Risk Management rule (40 CFR part 68). These changes finalize the "stay provisions" that were part of the rule and expired on December 22, 1997. These changes include deleting the category of Division 1.1 explosives (as listed by the federal Department of Transportation) from the list of regulated substances; exempting from threshold quantity determinations the regulated flammable substances in gasoline used as fuel and in naturally occurring hydrocarbon mixtures prior to entry into a natural gas processing plant or a petroleum refining process unit; clarifying the provision for threshold determination of flammable substances in a mixture; modifying to clarify the definition of stationary source to exempt transportation and storage incident to transportation; clarifying that naturally occurring hydrocarbon reservoirs are not stationary sources or parts of stationary sources; and clarifying that the chemical accident prevention provisions do not apply to sources located on the outer continental shelf. This rule is needed because without it facilities that were previously

exempt under provisions of the stay in 40 CFR part 68 are subject to LAC 33:III.Chapter 59. A technical amendment was made to the rule to include an amendment adopted by EPA on August 25, 1997, in 62 FR 45129-45132. This amendment modified the concentration for hydrochloric acid solutions from 30 percent to 37 percent.

The basis and rationale for this rule are to make the department's Chemical Accident Prevention rule consistent with the EPA Risk Management rule.

**Title 33**

**ENVIRONMENTAL QUALITY**

**Part III. Air**

**Chapter 59. Chemical Accident Prevention and Minimization of Consequences**

**Subchapter A. General Provisions**

**§5901. Incorporation by Reference of Federal Regulations**

A. Except as provided in Subsection C of this Section, the department incorporates by reference 40 CFR Part 68 (July 1, 1997), and as amended in 62 FR 45129-45132 (August 25, 1997) and 63 FR 639-645 (January 6, 1998).

\* \* \*

[See Prior Text in B-C.5]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:421 (April 1994), amended LR 22:1124 (November 1996), repromulgated LR 22:1212 (December 1996), amended LR 24:652 (April 1998).

Gus Von Bodungen  
Assistant Secretary

9804#009

**RULE**

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

**Open Burning (LAC 33:III.1109)(AQ166)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air Quality Division regulations, LAC 33:III.1109 (AQ166).

Acts 276 and 1275 of the 1997 Regular Session of the Louisiana Legislature provide for local governments to enact ordinances to require, prohibit, or regulate the destruction, disposal, or burning of trash, leaves, limbs, and branches. The basis and rationale for this rule are to mirror requirements on open burning as provided for in Acts 276 and 1275 of the 1997 Regular Legislative Session.

This 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 11. Control of Emissions of Smoke**

**§1109. Control of Air Pollution from Outdoor Burning**

\* \* \*

[See Prior Text in A]

B. Outdoor Burning Prohibited. No person shall cause or allow the outdoor burning of waste material or other combustible material on any property owned by him or under his control except as provided in Subsections C and D of this Section.

C. Statutory Exceptions. The following activities are not subject to the prohibition created in Subsection B of this Section:

1. the burning of leaves, grass, twigs, branches, and vines by a private property owner on his own property for noncommercial purposes in parishes with a population of 300,000 or less, provided the property owner attends the burning of yard waste at all times. This exception shall not apply in the parish of East Baton Rouge;

2. the burning of trees, brush, grass, or other vegetable matter in any parish having a population of 90,000 or less, provided the location of the burning is not within the territorial limits of a city or town or adjacent to a city or town in such proximity that the ambient air of the city or town will be affected by smoke from the burning;

3. the burning of trees, branches, limbs, or other wood as a bonfire that is specifically authorized by ordinance in the parishes of St. James, St. John the Baptist, or St. Charles;

4. the burning of agricultural by-products in the fields in connection with the planting, harvesting, or processing of agricultural products;

5. the controlled burning of cotton gin agricultural wastes in connection with cotton gin operations;

6. the controlled burning in connection with timber stand management; and

7. the controlled burning of pasture land or marshland in connection with trapping or livestock production.

D. Exceptions to Prohibition Against Outdoor Burning. Outdoor burning of waste material or other combustible material may be conducted in the situations enumerated below if no public nuisance is or will be created and if the burning is not prohibited by and is conducted in compliance with other applicable laws and with regulations and orders of governmental entities having jurisdiction, including air control regulations and orders. The authority to conduct outdoor burning under this regulation does not exempt or excuse the person responsible from the consequences of or the damages or injuries resulting from the burning:

1. outdoor burning in connection with the preparation of food;

2. campfires and fires used solely for recreational purposes or for ceremonial occasions;

3. outdoor burning in a rural park or rural recreation area of trees, brush, grass, and other vegetable matter for game management purposes in accordance with practices acceptable to Louisiana Parks and Recreation Commission and Louisiana Wildlife and Fisheries Commission;

4. small fires, by tradesmen and contractors, in such activities as street repair, installation or repair of sewer, water, electric, telephone mains, and services;

5. the operation of contrivances using open flames such as welding torches, blow torches, portable heaters, and other flame making devices;

6. outdoor burning, in other than rural park or rural recreation area, of trees, brush, grass, and other vegetable matter from such area in land clearing and right-of-way maintenance operations if the following conditions are met:

a. prevailing winds at the time of the burning must be away from any city or town, the ambient air of which may be affected by smoke from the burning;

b. the location of the burning must be at least 1,000 feet (305 meters) from any dwelling other than a dwelling or structure located on the property on which the burning is conducted;

c. care must be used to minimize the amount of dirt on the material being burned;

d. heavy oils, asphaltic materials, items containing natural or synthetic rubber, or any materials other than plant growth which produce unreasonable amounts of smoke may not be burned; nor may these substances be used to start a fire;

e. the burning may be conducted only between the hours of 8 a.m. and 5 p.m. Piles of combustible material should be of such size to allow complete reduction in this time interval; and

f. the burning must be controlled so that a traffic hazard as prohibited by Subsection E of this Section is not created;

7. fire purposely set as a part of an organized program of drills for the training of fire fighting personnel or for testing fire fighting materials or equipment if the following conditions are met:

a. the duration of the burning held to the minimum required for such purposes;

b. the burning is conducted only between the hours of 8 a.m. and 5 p.m.; and

c. the burning is controlled so that a traffic hazard as prohibited by Subsection E of this Section is not created;

8. outdoor burning of waste hydrocarbon products (from petroleum exploration, development or production operations, natural gas processing, such as, but not limited to, basic sediments, oil produced in testing an oil well, and paraffin) may be conducted at the site of origin when it is not practicable to transport the waste products for sale or reclamation, or to dispose of them lawfully in some other manner. In addition, hydrocarbons spilled or lost from pipeline breaks or other transport failure which cannot practicably be recovered or be disposed of lawfully in some other manner may be outdoor burned at the site where the spill occurred or at another appropriate place due to safety considerations. Except when the immediate or continuous burning of hydrocarbon spills is reasonably necessary to abate or eliminate an existing or imminent threat of injury to human life or significant damage to property, the outdoor burning shall be conducted under the following conditions:

a. the location of the burning must not be within or adjacent to a city or town or in such proximity thereto that the

ambient air of the city or town may be affected by smoke from the burning;

b. the burning is conducted only between the hours of 8 a.m. and 5 p.m.; and

c. the burning is controlled so that a traffic hazard as prohibited by Subsection E of this Section is not created; and

9. special situations approvable for exemption by the administrative authority prior to initiation of burning operation, as follows:

a. outdoor burning of explosives, pyrophoric, or any other materials where there is no practicable or safe method of disposal;

b. experimental burning for purposes of data gathering and research; and

c. nonrecurring unusual circumstances or any condition not covered above.

E. Traffic Hazards Prohibited. The emission of smoke, suspended particulate matter or uncombined water or any air contaminants or combinations thereof which passes onto or across a public road and creates a traffic hazard by impairment of visibility, as defined in LAC 33:III.111, or intensifies an existing traffic hazard condition is prohibited.

F. Exclusion from Application of this Section. Outdoor burning pursuant to and in compliance with the terms of a variance granted by the administrative authority is excluded from the application of this Section.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:1081 (October 1995), LR 24:652 (April 1998).

Gus Von Bodungen  
Assistant Secretary

9804#065

## RULE

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

Prevention of Significant Deterioration (PSD)  
and Public Inspection (LAC 33:III.509)(AQ164)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air Quality Division regulations, LAC 33:III.509 (AQ164).

The rule corrects language which mandates that the administrative authority make available preconstruction or modification information available at site-specific locations. Public participation is maintained through newspaper notification, the provision for citizens to request public hearings from the department secretary, and availability, upon request, to view these documents at the nearest departmental

**RULE**

**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\*)

regional office. The Office of Air Quality and Radiation Protection receives approximately 10 to 15 permit applications and permit modifications annually. The requirement to provide copies at the same locations where the administrative authority made available original documents is redundant. The basis and rationale for this rule are to correct existing, redundant language that requires the administrative authority to provide copies at the same locations where original documents are made available.

This 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**

**§509. Prevention of Significant Deterioration**

\* \* \*

[See Prior Text in A-Q.6]

7. The administrative authority shall make all comments available for public inspection at the Headquarters of the Department of Environmental Quality, Office of Air Quality and Radiation Protection. In accordance with 40 CFR 51.166(g)(2)(ii-vii), the regional office having jurisdiction for the parish in which the permit modification is being sought will be the regional location of all materials. In addition, the administrative authority may elect to provide certain parts of permits or permit modifications at other locations in the region.

\* \* \*

[See Prior Text in Q.8-8.a]

b. notify the applicant in writing of the final determination and make such notification available for public inspection at the Headquarters of the Department of Environmental Quality, Office of Air Quality and Radiation Protection. In accordance with 40 CFR 51.166(g)(2)(ii-vii), the regional office having jurisdiction for the parish in which the permit modification is being sought will be the regional location of all materials. In addition, the administrative authority may elect to provide certain parts of permits or permit modifications at other locations in the region.

\* \* \*

[See Prior Text in R-S.4]

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

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:348 (June 1988), LR 16:613 (July 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:478 (May 1991), LR 21:170 (February 1995), LR 22:339 (May 1996), LR 23:1677 (December 1997), LR 24:654 (April 1998).

Gus Von Bodungen  
Assistant Secretary

9804#070

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Hazardous Waste 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 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 rule. Therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4). This 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 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-N.5]

**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 24:655 (April 1998).

**§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.1127) 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 §1127) 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 24:655 (April 1998).

**§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, DC; 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 24:656 (April 1998).

### **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 24:657 (April 1998).

### **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 24:657 (April 1998).

### **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 24:657 (April 1998).

## **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 24:658 (April 1998).

## **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 24:659 (April 1998).

**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, DC 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 24:660 (April 1998).

**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 24:660 (April 1998).

### **§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 24:661 (April 1998).

#### **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 (222A), Environmental Protection Agency, 401 M Street, SW, Washington, DC 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 Record Keeping

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 24:661 (April 1998).

### **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 24:666 (April 1998).

#### **§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]

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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 24:666 (April 1998).

### **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 24:666 (April 1998).

### **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 24:666 (April 1998).

#### **§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 24:667 (April 1998).

#### **§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 treatment systems 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 24:667 (April 1998).

#### **§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 April 20, 1998, the wastes specified in LAC 33:V.4901.C as EPA Hazardous Waste Numbers K156-K159,

K161, and in LAC 33:V.4901.E as EPA Hazardous Waste Numbers 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 April 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 April 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 20, 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 July 8, 1996, and April 20, 1998, the wastes included in 40 CFR 268.39(a), (c), and (d) 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 24:667 (April 1998).

### §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 in LAC 33:V.4901.C as EPA Hazardous Waste Numbers K156-K159, K161, and in LAC 33:V.4901.E-F as EPA Hazardous Waste Numbers 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 24:668 (April 1998).

### §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 24:668 (April 1998).

**§2245. Generators' Waste Analysis, Record keeping, 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 24:669 (April 1998).

**§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 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 24:669 (April 1998).

**§2247. Owners or Operators of Treatment or Disposal Facilities: Testing, Waste Minimization, Record keeping, 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 24:670 (April 1998).

**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	CARBN; or CMBST	0.066 and meet LAC 33:V.2233 standards <sup>8</sup>
		beta-BHC	319-85-7	CARBN; or CMBST	0.066 and meet LAC 33:V.2233 standards <sup>8</sup>
		delta-BHC	319-86-8	CARBN; or CMBST	0.066 and meet LAC 33:V.2233 standards <sup>8</sup>
		gamma-BHC (Lindane)	58-89-9	CARBN; 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
		Phenol	108-95-2	0.039	6.2
K159	Organics from the treatment of thiocarbamate wastes. <sup>10</sup>	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
		Vernolate	1929-77-7	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>	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>	Dimetilan	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.

\* \* \*

[See Prior Text in Table 3 - Table 6]

Table 7. Universal Treatment Standards			
Regulated Constituent-Common Name	CAS 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 Naphthalene - 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]			

\* \* \*

[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

\* \* \*

[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 zinc plating 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 April 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 24:680 (April 1998).

**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. <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]			
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]			
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]			
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
* * *			
[See Prior Text in Selenourea - Sodium cyanide]			
Sodium dibutyldithiocarbamate	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]			

Ziram	Zinc, bis(dimethylcarbomodithioato-S,S')-(T-4)-	137-30-4	P205
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<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 24:681 (April 1998).

**§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 24:683 (April 1998).

### **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 hydro geological 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 24:684 (April 1998).

### **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 24:684 (April 1998).

**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 24:685 (April 1998).

**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 24:685 (April 1998).

**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 24:685 (April 1998).

**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 24:685 (April 1998).

**§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 24:685 (April 1998).

**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 24:685 (April 1998).

**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 24:686 (April 1998).

**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
U409	23564-05-8	Thiophanate-methyl
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(diethylcarbamodithioato-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 24:686 (April 1998).

H.M. Strong  
Assistant Secretary

9804#008

**RULE**

**Department of Environmental Quality  
Office of Water Resources  
Water Quality Management Division**

**Bacteria Criteria (LAC 33:IX.1113)(WP028)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Water Quality regulations, LAC 33:IX.1113.C.5 (WP028).

The bacteria standards are revised by stating that the primary contact recreation criteria shall be applied during the months in which primary contact recreation such as swimming, tubing, or water skiing activities in the state are likely to occur. Secondary contact recreation criteria would apply to the nonrecreational period to be protective of any

incidental contact. Drinking water supply and oyster propagation water uses will continue to require year-long application of the most stringent criteria applicable to those uses. The previous bacteria criteria language in the Louisiana Surface Water Quality Standards established numerical criteria for four designated water uses: primary contact recreation, secondary contact recreation, drinking water supply, and oyster propagation. The language previously required application of the criteria all year long for each use. It is recognized that the water uses of drinking water supply and oyster propagation require year-long application. However, primary contact recreation such as swimming, water skiing, and tubing is entirely seasonal and is not occurring for many months during the year. Therefore, it is appropriate to establish a representative seasonal recreational period for application of the very stringent criteria for primary contact recreation. This approach will ensure that primary contact recreation criteria are most effectively applied to protect the swimming use when it is occurring and not applied when the use is not occurring.

The basis and rationale for this rule are to amend the Louisiana Surface Water Quality Standards to allow for seasonal application of the very stringent bacteria criteria for primary contact recreation. The establishment of a recreational period was developed by assessing a review of the typical beginning and ending of swimming activities in popular state water bodies. Water temperature data by month from representative water bodies were also assessed.

This 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 IX. Water Quality**

#### **Chapter 11. Surface Water Quality Standards**

##### **§1113. Criteria**

\* \* \*

(See Prior Text in A.-C.5.b)

i. Primary Contact Recreation. Based on a minimum of not less than five samples taken over not more than a 30-day period, the fecal coliform content shall not exceed a log mean of 200/100 mL, nor shall more than 10 percent of the total samples during any 30-day period or 25 percent of the total samples collected annually exceed 400/100 mL. These primary contact recreation criteria shall apply only during the defined recreational period of May 1 through October 31. During the nonrecreational period of November 1 through April 30, the criteria for secondary contact recreation shall apply.

\* \* \*

(See Prior Text in C.5.b.ii-Table 1.Footnote 10)

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2074(B)(1).

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:745 (October 1984), amended LR 15:738 (September 1989), LR 17:264 (March 1991), LR 17:967 (October 1991), repromulgated LR

17:1083 (November 1991), amended LR 20:883 (August 1994), LR 24:688 (April 1998).

Linda Korn Levy  
Assistant Secretary

9804#064

## **RULE**

### **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 amends 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 24:688 (April 1998).

Fred H. Mills, Jr.  
Executive Director

9804#015

**RULE**

**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 adopts 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 24:689 (April 1998).

**§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 24:689 (April 1998).

**§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 24:689 (April 1998).

**§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 24:689 (April 1998).

Fred H. Mills, Jr.  
Executive Director

9804#016

**RULE**

**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 amends 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 24:689 (April 1998).

Fred H. Mills, Jr.  
Executive Director

9804#004

**RULE**

**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 amends 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 24:692 (April 1998).

Fred H. Mills, Jr.  
Executive Director

9804#014

**RULE**

**Department of Health and Hospitals  
Office of Public Health**

**Drinking Water Revolving Fund (LAC 48:V.7801-7811)**

Under the authority of the Drinking Water Revolving Loan Fund Act, R.S. 40:2821 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health has adopted the Drinking Water Revolving Loan Fund regulations, LAC 48:V.Chapter 78.

This rule establishes requirements for participation in the Drinking Water Revolving Loan Fund program as authorized

under the Safe Drinking Water Amendments of 1996 and Act 480 of the 1997 Regular Session of the Louisiana Legislature, R.S. 40:2821 et seq. The Drinking Water Revolving Loan Fund will provide financial assistance to qualified borrowers for the construction of eligible drinking water facilities.

The rule provides information relating to eligibility of projects, application requirements, project priority ratings, engineering and environmental reviews, loan conditions, and construction inspections. The basis and rationale for this rule are to implement the Drinking Water Loan Fund program as authorized by the Safe Drinking Water Amendments of 1996 and Act 480 of the 1997 Regular Session of the Louisiana Legislature, R.S. 40:2821 et seq., and to provide the mechanism for the state to qualify for federal funds that will provide financial assistance to water systems for the construction of eligible drinking water facilities.

**Title 48**

**PUBLIC HEALTH—GENERAL**

**Part V. Health Services**

**Subpart 25. Drinking Water**

**Chapter 78. Drinking Water Revolving Loan Fund**

**§7801. Introduction**

A. The Department of Health and Hospitals, Office of Public Health (OPH) is the state agency within Louisiana granted primary enforcement responsibility from the United States Environmental Protection Agency (EPA) to ensure that Public Water Systems (PWSs) within the state are in compliance with state drinking water regulations which equal or exceed federal drinking water regulations adopted in accordance with the Safe Drinking Water Act (SDWA) (42 U.S.C. 300f et seq.). The SDWA Amendments of 1996 authorized a state revolving loan fund program to assist water systems in financing the costs of infrastructure improvements to facilitate compliance with and further the health protection objectives of the SDWA.

B. In accordance with the Louisiana Constitution and authorizing legislation, the Department of Environmental Quality (DEQ) is assisting OPH in the financial administration of the Drinking Water Revolving Loan Fund (the fund). Regulations governing the revolving loan fund program are promulgated by both OPH and DEQ.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Division of Environmental Health Services, LR 24:692 (April 1998).

**§7803. Authority**

Act 480 of the 1997 Regular Session of the Louisiana Legislature amended and reenacted R.S. 30:2011(A)(3) and (D)(23), 2073(8), 2074(A)(4), 2078(A), and (B)(1), the introductory paragraph of (B)(2), (B)(2)(a) and (I), (B)(3), and (C), 2079(A), 2080, 2081, 2083, 2087 and 2088, and enacted R.S. 30:2074(B)(8) and Chapter 32 of Title 40 of the Louisiana Revised Statutes of 1950, comprising R.S. 40:2821-2826, relative to state funds; creates the fund; provides for administration of the fund program by OPH, including the authority to establish assistance priorities and perform oversight and other related activities; authorizes the secretary of DEQ to administer the financial and environmental review aspects of the fund; requires that certain monies

received be deposited into the fund; authorizes imposition of administrative fees; provides for rulemaking authority; provides for an exemption to certain public bond trust restrictions; and provides for related matters.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 40:2821 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of Public Health, Division of Environmental Health Services, LR 24:692 (April 1998).

### **§7805. Definitions**

The following terms used in these regulations shall have the following meanings:

*Applicant*—any person who submits an application for financial assistance in accordance with LAC 48:V.Chapter 78.

*Community Water System*—a public water system that serves year-round residents within a residential setting.

*Construction*—preliminary planning, engineering, architectural, legal, fiscal, and economic investigations and/or studies, surveys, designs, plans, working drawings, specifications, erection, building, acquisition, alteration, remodeling, improvement, or extension of the project.

*Department*—the Office of Public Health (OPH) of the Louisiana Department of Health and Hospitals (DHH).

*Disadvantaged Community*—a community:

- a. whose application for a construction loan is primarily to resolve a health and compliance problem;
- b. that will serve a population of less than 3,300 on a retail connection basis; and
- c. where the median household income is 65 percent or more below the state average. Larger communities may receive this designation if taking over another public water system which would be determined to be disadvantaged under these criteria or by providing drinking water service to existing unserved areas with health problems.

*Drinking Water Facilities*—facilities which are for the purpose of protecting, producing, collecting, transporting, and treating source water, and for storing, distributing, or holding drinking water.

*Environmental Review*—an assessment by the DEQ of the environmental impact of a proposed project and assurances that the project will comply with all environmental laws and executive orders applicable to the project area.

*Financial Assistance*—loans, credit enhancement devices, guarantees, pledges, interest rate swap agreements, linked deposit agreements, and other financial subsidies authorized by law.

*Fund*—the Drinking Water Revolving Loan Fund established by the department in accordance with the Safe Drinking Water Act (SDWA) Amendments of 1996 and Act 480 of the 1997 Regular Session of the Louisiana Legislature.

*Governmental Agency*—the state, its political subdivisions, or any agency thereof, Indian tribes, and combinations of governmental entities, which have authority to own, construct, or operate a public water system and other related activities.

*Letter of Intent*—a written notification of the intent of the applicant to participate in the fund program. The notification must include a request for financial assistance, the estimated

amount of financial assistance, an estimated construction schedule; and must document the authority of the applicant to make the request.

*Loan or Loans*—a disbursement of money from the fund made by the department to a person in accordance with a loan and pledge agreement.

*Loan and Pledge Agreement*—a contractual arrangement by and between a person and the state acting by and through DEQ, providing for a loan or loans to such person for the purpose of paying the eligible cost of a project or projects.

*Noncommunity Water System*—a public water system that serves persons in a nonresidential setting.

*Nonprofit Noncommunity Water System*—a noncommunity water system that is owned by an entity organized under Louisiana law which qualifies as a tax exempt organization under the provisions of section 501(c)(3) of the Internal Revenue Code.

*Person*—any individual, partnership, firm, corporation, company, cooperative, association, society, trust, or any other business unit or entity, including the state, its political subdivisions, or any agency thereof, Indian tribes, and combinations of governmental entities.

*Privately Owned System*—a public water system that is not owned by a governmental agency.

*Project*—improvements or activities that are to be undertaken by a public water system which:

- a. are of a type that will facilitate compliance with state drinking water regulations which are no less stringent than any federal drinking water regulations adopted pursuant to the SDWA; or
- b. further the health protection objectives of the SDWA.

*Public Water System*—a system intended to provide potable water to the public, which system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days per year. The term includes:

- a. any collection, treatment, storage, and distribution facilities under the control of the operator of the system and used primarily in connection with the system; and
- b. any collection or pretreatment storage facilities not under such control which are used primarily in connection with the system.

*Publicly Owned System*—a public water system that is owned by a governmental agency.

*Secretary*—the secretary of the Department of Health and Hospitals.

*State*—the State of Louisiana or any agency or instrumentality thereof.

*System Improvement Plan*—the document containing the necessary plans, specifications, and studies relating to the construction of a complete project of drinking water facilities.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 40:2821 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of Public Health, Division of Environmental Health Services, LR 24:693 (April 1998).

### **§7807. Pre-Application and Eligibility for Participation**

A. Pre-Application. To be considered for financial assistance, a completed pre-application must be submitted to

the department by the applicant, using the form(s) provided by the department.

B. Letter of Intent. An applicant shall include a letter of intent to the department as part of the pre-application package.

C. Eligible Projects. Financial assistance may be provided only for the construction of drinking water facilities as described in a system improvement plan approved by the department. The department may consider only applications for projects by community water systems, both publicly and privately owned, and nonprofit noncommunity water systems.

D. Project Priority Rating. All eligible projects for which a pre-application is submitted will be assigned a priority rating annually by the department based upon the priority criteria described in the Intended Use Plan submitted to the EPA each year as part of the federal capitalization grant application.

E. Allowable/Eligible Costs

1. Allowable cost determinations, based on applicable federal law and guidance, will be made by the department on a project-by-project basis.

2. Pre-Application Conference. Applicants whose pre-application project falls in the fundable portion of the annual priority list, and who have demonstrated a commitment to proceed with the application process, shall be invited to an application conference with the department and the DEQ in order to insure the applicant is acquainted with program requirements and to assist the applicant in preparing an application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Division of Environmental Health Services, LR 24:693 (April 1998).

### **§7809. Application Requirements and Loan Conditions**

A. Limitation on Applications. An application shall only be funded after authorization from both the department and the DEQ. Completed application packages shall be provided to both the department and the DEQ simultaneously.

B. Application Package. The contents of the application package must contain all applicable information required by the department including, but not limited to, the following:

1. System Improvement Plan. The applicant will submit a System Improvement Plan (SIP) consisting of those necessary plans, specifications and studies that directly relate to construction of drinking water facilities. The SIP must contain enough information to allow the department to perform an engineering review of the proposed project to determine compliance with the *State Sanitary Code*, and to allow for the appropriate environmental review as required by the DEQ.

2. Financial Information. The applicant is required to submit sufficient information to demonstrate its legal, institutional, managerial, and financial capability to ensure the construction, operation, and maintenance of the drinking water facilities and repayment of the loan, interest, and administrative fees.

3. Site Certificate. The applicant must submit a certificate executed by an attorney certifying that the applicant

has acquired all property sites, easements, rights-of-way, or specific use permits necessary for construction, operation, and maintenance of the project described in the approved SIP.

4. Engineering Review. The department will perform a technical review of the SIP to insure that the proposed improvements are necessary and eligible for program funding, and that the completed project will result in compliance with the SDWA and any applicable state drinking water regulations. This review shall include the review of bidding documents to verify that the proposed contractor has complied with all applicable federal cross-cutting authorities and has or will have all required bonds and insurance certificates.

C. Loan Conditions. Loans for projects will be made only to eligible applicants who comply with the conditions and requirements established by the DEQ.

D. Loan Period. Standard loans shall be made by the DEQ for a period of time not to exceed 20 years from the completion date of the project. Loans to disadvantaged communities may be extended to a period of 30 years. Interim construction financing shall not exceed two years without written approval from the department and from DEQ.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Division of Environmental Health Services, LR 24:694 (April 1998).

### **§7811. Miscellaneous**

A. Coordination. Coordination of project review and approval for funding shall be conducted in accord with the Memorandum of Understanding (MOU) to be executed by the department and the DEQ.

B. Inspection During Construction. By making application for financial assistance to the department, applicants consent and agree to allow the department and/or the DEQ the right of reasonable access and opportunity for inspection as follows.

1. From the time a completed application for financial assistance is received by the department, throughout all stages of construction, and at any other time while financial assistance from the department to the applicant is outstanding, the department shall have the right to inspect any and all projects, and any and all incidental works, areas, facilities and premises otherwise pertaining to the project for which application is made.

2. The department and the DEQ shall further have the same right of inspection to examine any and all books, accounts, records, contracts, or other instruments, documents, or information in the possession of the applicant or its contractors, agents, employees, or representatives which relate in any respect to the receipt, deposit, or expenditure of project-related financial assistance funds.

C. Project Changes/Modifications

1. The applicant shall receive approval from the department and the DEQ prior to effecting any changes which:

a. alter the project performance standards;

b. alter the type or degree of water treatment provided by the project;

c. substantially delay or accelerate the project schedule;

d. substantially alter the design plans and/or specifications; or the location, size, or capacity; or quality of any major part of the project.

2. Minor changes in the project which are consistent with the scope and objectives of the project and the requested financial assistance do not require the approval of the department prior to implementation of the change. However, the amount of the financial assistance may be increased only by means of a formal amendment to the assistance agreement which must first be approved by both the department and the DEQ.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Division of Environmental Health Services, LR 24:694 (April 1998).

Bobby P. Jindal  
Secretary

9804#071

## RULE

### Department of Public Safety and Corrections Gaming Control Board

Appeals; Petition for Declaratory  
Orders and Rulings, Statutes and Rules  
(LAC 42:III.115 and 116)

The Gaming Control Board hereby adopts LAC 42:III.115 and 116 in accordance with R.S. 27:1 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

#### Title 42

#### LOUISIANA GAMING

#### Part III. Gaming Control Board

#### Chapter 1. General Provisions and Scope

#### §115. Appeals to the Board

Appeals to the board from a decision of a hearing officer shall be decided by the board. The appeal shall be decided on the record by a majority of a quorum of the board or a majority of a panel of three members of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 24:695 (April 1998).

#### §116. Petition for Declaratory Orders and Rulings, Statutes and Rules

A. Any interested person may file a petition for a declaratory order or ruling as to the applicability of any statutory provision or as to the applicability or validity of any rule or order of the board.

B. Petitions referred to in §116.A shall be in writing and filed with the board at its office in Baton Rouge.

C. Petitions filed with the board in accordance with §116 shall be disposed of promptly.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 24:695 (April 1998).

Hillary J. Crain  
Chairman

9804#021

## RULE

### Department of Public Safety and Corrections Office of the State Fire Marshal

Manufactured Housing (Installation)  
(LAC 55:V.521-553)

In accordance with the provisions of R.S. 49:950 et seq., and R.S. 51:911.32.A(2), relative to the authority of the Office of the State Fire Marshal to promulgate and enforce rules and regulations, the Office of the State Fire Marshal hereby adopts the following rules.

#### Title 55

#### PUBLIC SAFETY

#### Part V. Fire Protection

#### Chapter 5. Manufactured Housing (Installation)

#### §521. Definitions

When used in these regulations, these terms shall have the following meanings:

*Dealer*—any person engaged in the sale, leasing, or distribution of mobile homes or manufactured housing primarily to a person who, in good faith, purchases or leases a mobile home or manufactured housing for purposes other than resale.

*Fire Marshal*—the assistant secretary of the Office of the State Fire Marshal of the State of Louisiana.

*Installation*—the construction of a foundation system and the placement or erection of a manufactured home or a mobile home on the foundation system. *Installation* includes, without limitation, supporting, blocking, leveling, securing, or anchoring such home and connecting multiple or expandable sections of such home together and to the foundation.

*Installer*—a person responsible for the installation of a manufactured home or mobile home and who is required to obtain a license pursuant to the provisions of R.S. 51:912.

*Manufactured Home*—a new or used structure transportable in one or more sections, which is 8 body feet or more in width or 40 body feet or more in length or, when erected on site, is 320 or more square feet and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating and air conditioning, and electrical systems contained therein. For purposes of LAC 55:V.Chapter 5, the terms *mobile home*, *manufactured home*, and *manufactured housing* may be used interchangeably and apply only to structures bearing the permanently affixed seal of the U.S. Department of Housing and Urban Development.

*Manufacturer*—any person who constructs or assembles manufactured housing.

*Person*—a natural person, association, or group of natural persons, partnership, company, corporation, institution, or legal entity.

*Salesman*—any person employed by a dealer for purposes of selling manufactured housing to the public.

*Transporter*—an individual who transports the manufactured home or mobile home to the site of installation but does not perform the blocking and anchoring of the home.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:911.32.A(2).

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:695 (April 1998).

### **§523. General**

A. Any person who engages in the business of installing manufactured homes, who directs, supervises, or controls installations or performs repairs to an existing installation shall have an appropriate, valid Louisiana manufactured housing installer's license issued by the Office of the State Fire Marshal.

B. Persons who have had a license issued by this office revoked may not apply for approval as an installer within one year of the date of revocation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:911.32.A(2).

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:696 (April 1998).

### **§525. License Exceptions**

Notwithstanding the provisions of LAC 55:V.523, the following individuals are not required to have a license as provided therein:

1. when the individual installing the manufactured home is the owner thereof, or the manufactured home is owned by a member of the individual's immediate family, and the manufactured home is not intended for sale, exchange, lease, or rent;

2. an individual installing additional blocking for support;

3. an individual installing a manufactured home when the manufactured home is installed on a dealer's, distributor's, or manufacturer's sales or storage lot or at a show and is not occupied or intended to be occupied. This exemption does not include those manufactured homes installed in manufactured homes parks or manufactured homes subdivisions;

4. an individual performing plumbing or electrical work when the individual doing the work is a licensed plumber or electrician;

5. an individual performing maintenance, repairs, or corrections to an installation for the purpose of customer service on behalf of manufacturers or dealers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:911.32.A(2).

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:696 (April 1998).

### **§527. Manufactured Housing Installer's License**

Effective May 1, 1998, a manufactured home may not be installed without a licensed manufactured housing installer

supervising installation work being performed. The licensed manufactured housing installer is responsible for the reading, understanding, and following of the manufacturers installation instructions and performance of nonlicensed workers engaged in the installation of the home.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:911.32.A(2).

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:696 (April 1998).

### **§529. Requirements for Installer's License**

A. To be licensed as a manufactured housing installer, an applicant shall have at least one year's experience installing manufactured homes.

B. Verification of experience shall be submitted in the form of sworn statements signed by the applicant before a notary public.

C. In addition to the completed application form and application fee, an applicant shall provide the following:

1. personal identification;
2. proof of workers' compensation insurance;
3. proof of vehicle liability as required by law.

D. After January 1, 1999, in addition to the requirement of §529.A, B, and C, the application must include a certificate of completion as evidence of having attended and received a passing grade in a fire marshal-approved manufactured housing installation education program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:911.32.A(2).

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:696 (April 1998).

### **§531. Installer's Responsibilities and Limits**

A. Work covered by an installer's license shall be limited to:

1. installing manufactured homes in accordance with applicable statutes, administrative rules and regulations, adopted codes, and standards;

2. installing the support, tie down and the structural connections for manufactured housing in accordance with applicable statutes, rules and regulations, adopted codes, and standards;

3. providing plumbing, electrical, and mechanical connections of and to the manufactured home in accordance with applicable statutes, rules and regulations, adopted codes, and standards;

4. performing plumbing, mechanical, and electrical tests in accordance with applicable statutes, rules and regulations, adopted codes, and standards, as required for installation;

5. supervising individuals installing manufactured homes.

B. An installer shall:

1. assure the manufactured home is in compliance with the *Louisiana Uniform Standard Code for Manufactured Housing and Mobile Homes*;

2. perform electrical and plumbing tests if the plumbing and electrical connections were made by the installer;

3. close and secure all access panels and covers on or under the manufactured home;

4. assure the manufactured home installation is in compliance with the applicable statutes, rules and regulations,

adopted codes, and standards;

5. assure that all doors and windows are adjusted, secured in place, and operational;

6. assure that all "ship loose" flue vents and chimneys are installed, secured in place, and capped according to their listing;

7. complete all reporting and application forms required by these rules;

8. leave the manufacturer's installation instructions at the installation site to be available at the time of the inspection if used for any part of the installation and thereafter left with the owner thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:911.32.A(2).

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:696 (April 1998).

### **§533. Installer's Responsibilities to the Consumer**

An installer shall:

1. ensure all phases of the installation work performed by the installer are complete and in compliance with the applicable statutes, rules and regulations, adopted codes, and standards;

2. notify the Office of the State Fire Marshal of the installation work performed by the installer;

3. correct all applicable nonconformances within 30 days of receipt of a correction notice from the Office of the State Fire Marshal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:911.32.A(2).

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:697 (April 1998).

### **§535. Monthly Report**

A. An installer shall submit a monthly installation report to the Office of the State Fire Marshal by the twentieth day of the following month.

B. A report need not be filed for those months in which no installations were made.

C. Reports shall be submitted on forms provided by the Office of the State Fire Marshal and provide all information requested thereon.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:911.32.A(2).

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:697 (April 1998).

### **§537. Issuance and Possession of License**

A. A manufactured home installer license shall be issued to the person named on the application and shall be nontransferable.

B. The licensee shall publicly display said license at licensee's principal place of business and physically possess a copy of the license when at the job site.

C. The licensee shall provide satisfactory evidence of being licensed when requested to by the Office of the State Fire Marshal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:911.32.A(2).

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:697 (April 1998).

### **§539. License Renewal**

A. Licenses issued under LAC 55:V.Chapter 5 shall expire on January 1 of the year following issuance.

B. An application for renewal of a current license shall include:

1. the required fees as set forth in R.S. 51:912.27.A;

2. all information requested on the form by the Office of the State Fire Marshal.

C. Forty-five days prior to license expiration, the fire marshal shall mail each licensee a license renewal application.

D. A license renewal application must be submitted to the fire marshal prior to the expiration date of the license. Persons wishing to apply for a license after their license has expired must reapply for a new license and meet all requirements of a new applicant.

E. A person not meeting the continuing educational requirement prior to December 31 of each year, shall apply for a temporary installer's license that will be effective for six months or until said installer completes his continuing education requirement, whichever occurs first.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:911.32.A(2).

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:697 (April 1998).

### **§541. Issuance of the Temporary Installer's License**

A. In order to be issued a temporary installer's license, the applicant must qualify as provided by LAC 55:V:539.E, or meets all of the conditions of LAC 55:V:537 except for the educational requirements. The purpose of the temporary license is to allow such individuals to complete the educational requirements. Such requirements must be completed at the earliest available time after issuance of the temporary license. The temporary installer's license is not renewable.

B. A temporary installer's license allows persons to perform all of the work performed by an installer. The license shall be valid for six months from the date of issue.

C. The fee for the temporary license is the same as the installer's license as provided in R.S. 51:912.27.A.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:911.32.A(2).

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:697 (April 1998).

### **§543. License Suspension or Revocation; Imposition of Civil Penalties**

A. The fire marshal may, after notice and hearing as required by R.S. 49:950 et seq., suspend or revoke an installer's license issued by this office, or impose a civil penalty as provided for by R.S. 40:1563.4, for violations of applicable statutes, rules, regulations, adopted codes, or standards or lawful orders issued by the fire marshal.

B. The schedule of fines shall be as follows:

1. First offense of the following violations:

- |   |       |
|---|-------|
| a. Failure to timely renew license        | \$100 |
| b. Failure to timely file required report | \$100 |

c. Failure to properly supervise unlicensed employees	\$100
d. Failure to install "ship loose" flue vents and chimneys	\$100
e. Failure to timely correct nonconformances	\$100
2. Second offenses of the foregoing violations	\$250
3. Third offenses of the foregoing violations	\$500
4. First offense of the following violations:	
a. Failure to properly set up and install the manufactured home	\$250
b. Failure to properly tie down the manufactured home	\$250
c. Failure to properly plumb and/or electrically connect the manufactured home	\$250
d. Failure to properly tag and seal multi-sectional manufactured home	\$250
e. Bringing the manufactured home out of compliance with federal standards by altering it or installing improper equipment	\$250
f. Second offenses of the foregoing violations	\$500
g. Third offenses of the foregoing violations	\$750

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:911.32.A(2).

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:697 (April 1998).

**§545. Education: Requirements, Installer's License**

A. Beginning January 1, 1999, all licensed installers shall attend at least one fire marshal-approved installation class per calendar year.

B. Classes shall only be provided by the fire marshal or a fire marshal-approved provider and shall include instruction as to statutes, codes, rules, and regulations or standards and/or changes thereof and proper installation procedures.

C. Prior to the end of the license period, licensees will be notified by the fire marshal of class requirements and class availability for the next license period.

D. The fire marshal shall not renew licenses of licensees who did not attend required classes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:911.32.A(2).

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:698 (April 1998).

**§547. Course Curriculum Requirements for Education Provider Training**

A. The course curriculum shall be submitted to the fire marshal for approval and shall include a detailed description of course content and materials.

B. The course curriculum for manufactured housing installers should, at a minimum, include the following areas of training:

1. definitions, as provided in the "Louisiana Minimum Standards for Installation of Manufactured Homes and Mobile Home" law;
2. license and registration requirements;
3. permits and penalties;
4. installer qualification;
5. location of manufactured homes;
6. foundation systems;
7. structural connections;
8. anchoring systems;
9. electrical connections;
10. plumbing connections;
11. mechanical connections;
12. fuel gas piping connections;
13. fire protection and separation;
14. underfloor enclosures, access, and ventilation;
15. alternate manufactured housing uses;
16. accessory buildings and structures;
17. alterations, repairs, and additions.

C. Within 30 days of notification of any change in course curriculum requirements adopted by the fire marshal, the provider shall submit a revised curriculum to the fire marshal for approval.

D. The provider shall notify the fire marshal, in writing, seven days prior to each class, indicating the time, date, and location of the class. The fire marshal's representative shall be permitted to audit any class, without fee or cost for entry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:911.32.A(2).

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:698 (April 1998).

**§549. Requirements for Education Provider Instructors**

A. Instructors must provide to the fire marshal for approval, documentation of qualifications to teach installation classes.

B. Documentation must include:

1. formal schooling;
2. specified training in the manufactured housing industry;
3. history of instructional ability.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:911.32.A(2).

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:698 (April 1998).

**§551. Inspections by the Office of the State Fire Marshal**

A. Upon request for inspection by a Louisiana-licensed dealer, manufacturer, installer, or the homeowner, the Office of the State Fire Marshal will cause an inspection to be performed by one of the employees of this office to determine compliance with the applicable sections of R.S. 51:912.21 through R.S. 912.28 regarding installation.

B. Upon completion of the requested inspection the Office of the State Fire Marshal will present to the requesting party and the homeowner an inspection report indicating the findings of said inspection.

C. The requesting party will reimburse the Office of the State Fire Marshal for the inspection in accordance with the provisions of R.S. 51:911.32(3).

D. The fee shall be \$40.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:911.32.A(2).

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:698 (April 1998).

**§553. Pier Spacing and Construction**

In accordance with R.S. 51:912.23(1)(a) the following table and figures shall be utilized for installation of piers:

**TABLE A**

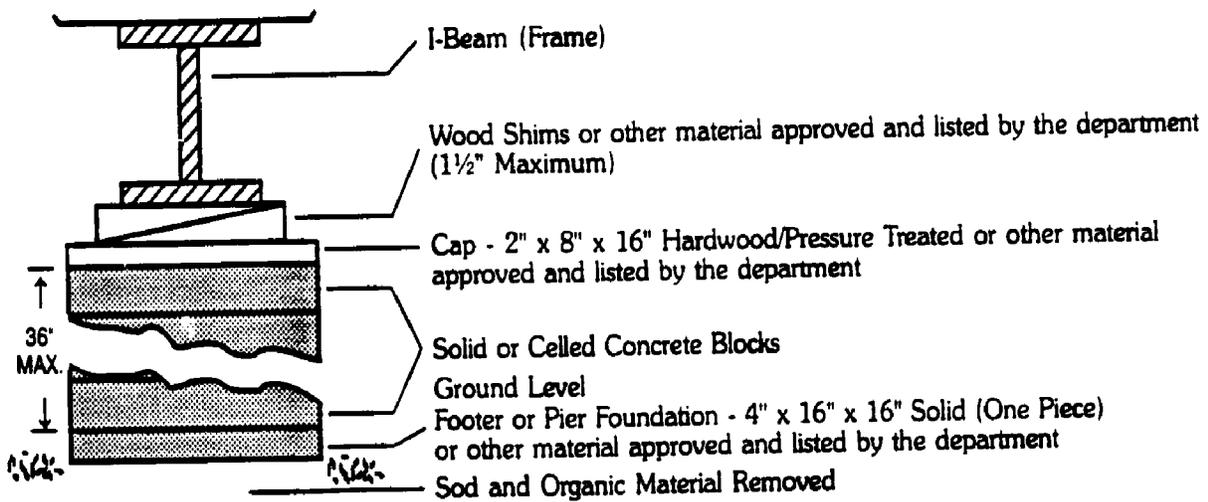
**PIER SPACING TABLE**

Soil Class	1,000 PSF		1,500 PSF		2,000 PSF		2,500 PSF		3,000 PSF	
Footer Size	4'x16'x16'	6'x20'x20'								
Max. Pier Space	3'	4'6"	4'	6'6"	6'	9'	8'	11'	9'	11'

(Note: Pier Measurements are from Center to Center)

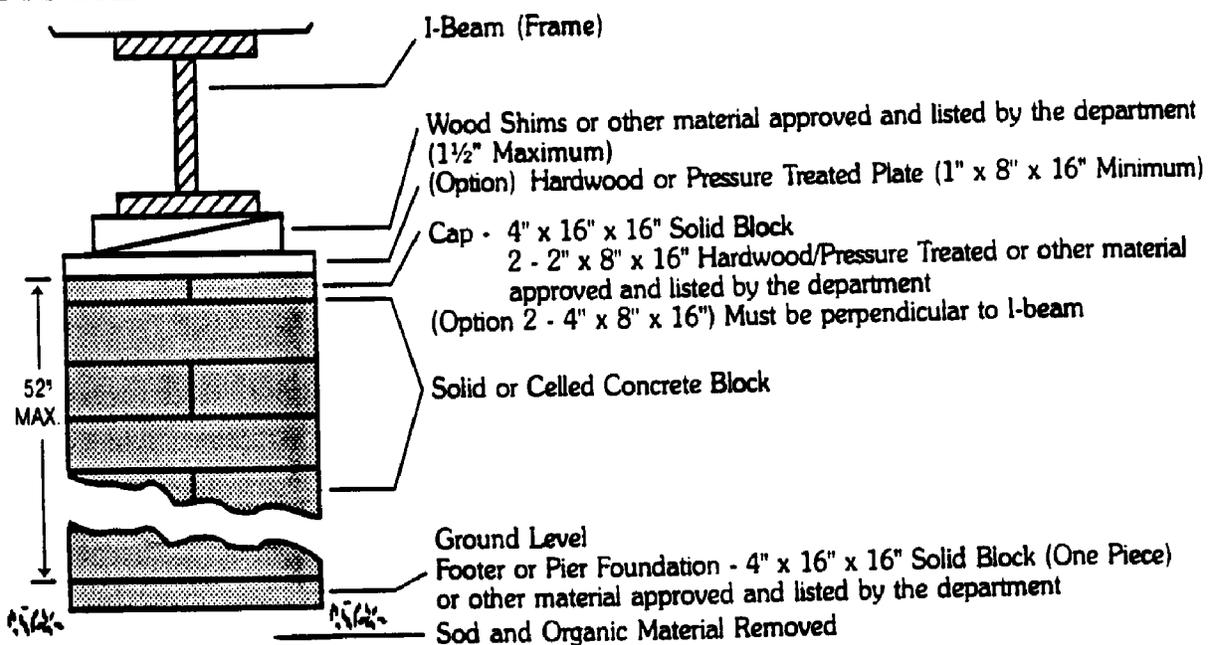
**FIGURE A**

**BLOCKING (Single Tiered)**



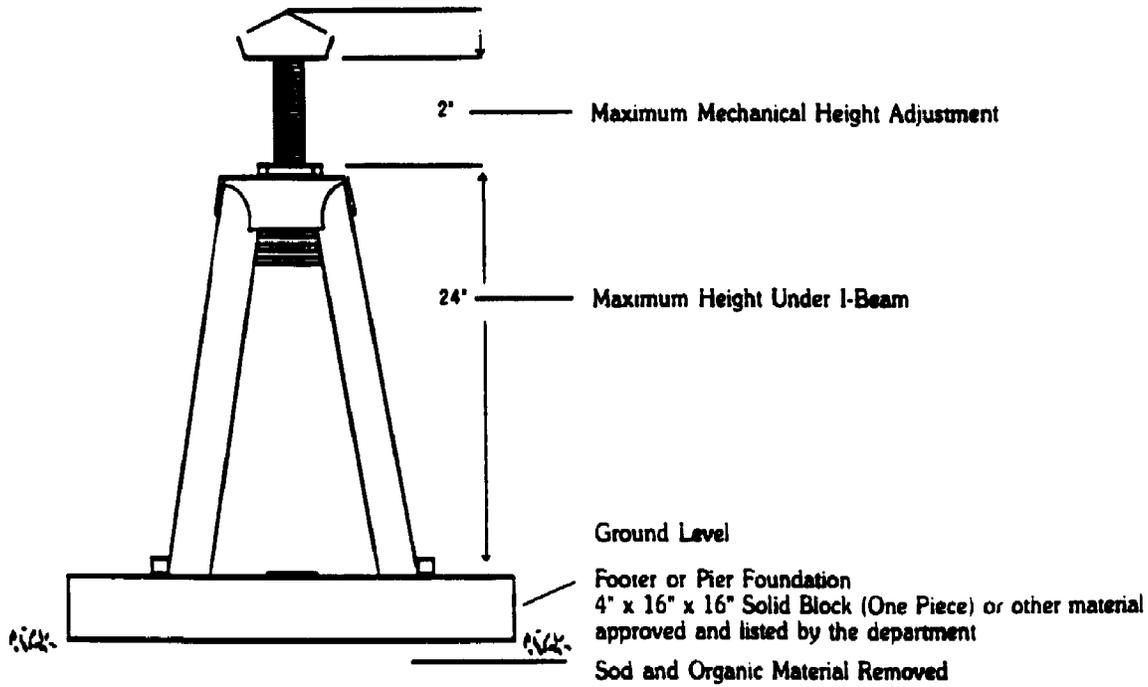
**FIGURE B**

**BLOCKING (Double Tiered and Block Interlocked)**



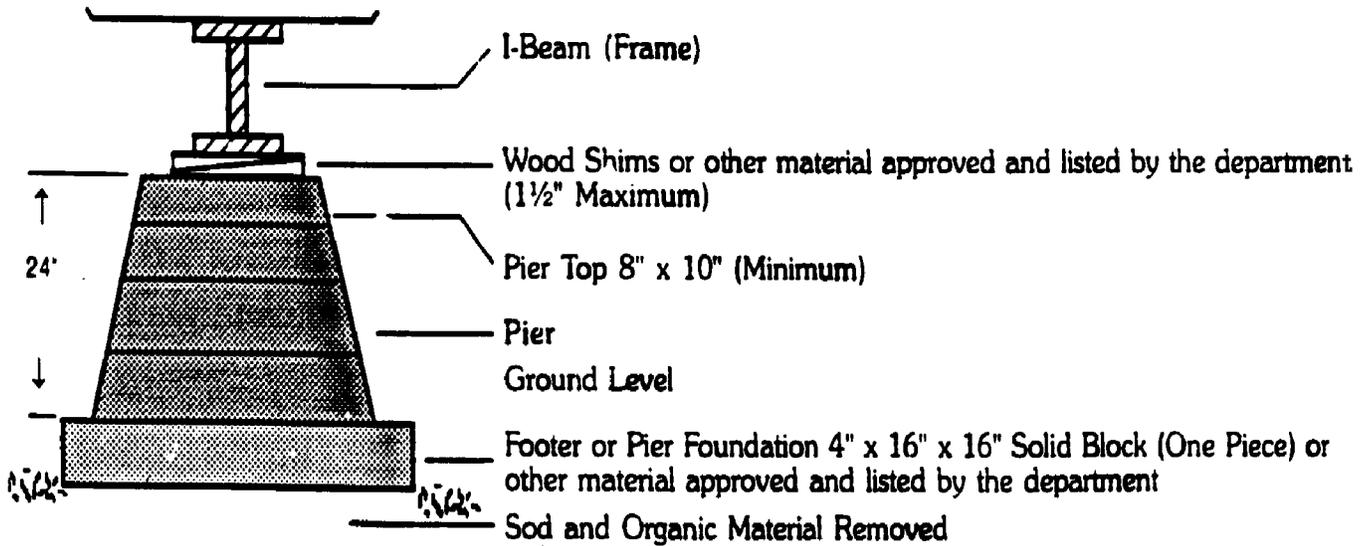
**FIGURE C**

**I-BEAM FRAME ATTACHMENT**



**FIGURE D**

**BLOCKING (Solid Pier)**



AUTHORITY NOTE: Promulgated in accordance with R.S. 51:911.32.A(2).

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 24:699 (April 1998).

Thomas H. Normile  
Undersecretary

9804#041

## RULE

### Department of Revenue Office of Alcohol and Tobacco Control

#### Responsible Vendor Program Fees (LAC 55:VII.501)

Under the authority of R.S. 26:906 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Office of Alcohol and Tobacco Control has adopted LAC 55:VII.501 to establish an annual \$35 fee for each licensed establishment holding a Class "A" General, Class "A" Restaurant, or a Class "B" Retail Alcoholic Beverage Control Permit issued under R.S. 26:71 or R.S. 26:271.

Act 1054 of the 1997 Regular Session of the Louisiana Legislature enacted Chapter 7 of Title 26 of the Revised Statutes, comprised of §§901 through 909, to establish the Responsible Vendor Program. According to the Act's provisions, the program, which educates vendors, their employees, and customers about selling, serving, and consuming alcoholic beverages in a responsible manner, must be approved by January 1, 1998. Section 906 provides for a fee, not exceed \$50 per licensed establishment, to fund the costs of developing and administering the program.

#### Title 55

#### PUBLIC SAFETY

#### Part VII. Alcohol and Tobacco Control

#### Chapter 5. Responsible Vendor Program

#### §501. Fees

The Office of Alcohol and Tobacco Control hereby establishes an annual fee of \$35 per licensed establishment holding a Class "A" General, Class "A" Restaurant, or a Class "B" Retail Alcoholic Beverage Control Permit issued under R.S. 26:71 or R.S. 26:271 for the purpose of funding development and administration of the Louisiana Responsible Vendor Program.

1. The fee shall be assessed on all new and renewal applications for retail permits to engage in the business of dealing in alcoholic beverages.

2. The fee shall not be assessed to those parties seeking a Special Event Permit under the provisions of R.S. 26:793(A).

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:906.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 24:702 (April 1998).

Murphy J. Painter  
Commissioner

9804#042

## RULE

### Department of Social Services Office of Community Services

#### Interethnic Adoption (LAC 67:V.401)

The Department of Social Services, Office of Community Services has adopted the following rule in the Adoption and Foster Care Program. This rule, §401, Interethnic Adoption Provisions, replaced the previous §401, Multi-ethnic Placement.

This rule is mandated by The Small Job Protection Act of 1996 (Public Law 104-188), Section 1808 "Removal of Barriers to Interethnic Adoption," which was signed by President Clinton on August 20, 1996. It became effective January 1, 1997. This rule further affirms and strengthens the 1994 Multi-ethnic Placement Act prohibition against discrimination in adoption and foster care placements.

#### Title 67

#### SOCIAL SERVICES

#### Part V. Community Services

#### Subpart 1. General Administration

#### Chapter 4. Placements

#### §401. Interethnic Adoption Provisions

A. The Office of Community Services and its subrecipients involved in adoption or foster care placements may not:

1. deny to any person the opportunity to become an adoptive or a foster parent on the basis of the race, color, or national origin of the adoptive or foster parent, or the child involved; or

2. delay or deny the placement of a child for adoption or into foster care on the basis of the race, color, or national origin of the adoptive or foster parent, or the child involved.

B. The term *placement decision* means the decision to place, or to delay or deny the placement of, a child in a foster care or an adoptive home, and includes the decision of OCS and its subrecipients to seek the termination of birth parents' rights or otherwise make a child legally available for adoptive placement.

C. Any individual who is aggrieved by an action in violation of §401.A taken by OCS or its subrecipients shall have the right to bring an action seeking relief in a United States district court of appropriate jurisdiction.

D. Nothing in §401 shall be construed to affect the

application of the Indian Child Welfare Act of 1978, 25 U.S.C. 1901 et seq.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-188, Section 1808.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 20:898 (August 1994), amended LR 21:1353 (December 1995), LR 24:702 (April 1998).

Madlyn B. Bagneris  
Secretary

9804#072

## RULE

### Department of Social Services Office of Family Support

#### Support Enforcement—Child Support Distribution (LAC 67:III.2514)

The Department of Social Services, Office of Family Support has amended the *Louisiana Administrative Code*, Title 67, Part III, Subpart 4, Support Enforcement Services (SES), the child support enforcement program. An emergency rule was signed by the secretary on December 3, 1997.

Public Law 105-33, the Balanced Budget Act of 1997, signed into law on August 5, 1997, amended §457 of Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, which governs the distribution of support collected under Title IV-D of the Social Security Act. The Department of Health and Human Services, Administration for Children and Families issued Action Transmittal OCSE-AT-97-17 on October 21, 1997, directing states to take immediate action. Under the existing rule, funds collected in excess of a Family Independence Temporary Assistance Program (FITAP) grant amount, up to the amount of the court-ordered monthly support, are required to be disbursed to the applicant/recipient. Under P.L. 104-193 this distribution is no longer required, and the full amount collected must be used to determine the federal share. The state will retain the state share to reimburse the current and prior assistance amounts.

Additionally, Public Law 104-193, as clarified by the Action Transmittal, mandated that state tax intercepts be distributed as all other collections, so the words "and/or state tax" are being deleted from LAC 67:III.2514.B.

#### Title 67

### SOCIAL SERVICES

#### Part III. Office of Family Support

#### Subpart 4. Support Enforcement Services

#### Chapter 25. Support Enforcement

#### Subchapter D. Collection and Distribution of Support Payments

#### §2514. Distribution of Child Support Collections

A. Effective December 3, 1997, the agency will distribute child support collections in the following manner:

1. In cases in which the applicant/recipient (AR) currently receives Family Independence Temporary Assistance Program (FITAP) benefits, collections received in a month will

be retained by the state to reimburse previous and current assistance amounts. If the collection amount exceeds the amount of unreimbursed grant, the excess will be refunded to the AR up to the current arrearage amount.

2. - 4. ...

B. There are general exceptions to distribution. Any collections received through intercept programs or income assignments are subject to refund to the noncustodial parent based on federal and state laws and regulations. Effective December 3, 1997, amounts collected through IRS intercepts will be applied to arrears in this order:

1. - 2. ...

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and P.L. 105-33.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:304 (March 1997), amended LR 24:703 (April 1998).

Madlyn B. Bagneris  
Secretary

9804#075

## RULE

### Department of Transportation and Development Office of Weights and Measures

#### Minimum Standards for Reflectivity of Work-Site Materials (LAC 73:III.Chapter 3)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and under the authority of Act 1303 of the 1997 Regular Session of the Louisiana Legislature, the Department of Transportation and Development adopts the following rule setting forth minimum standards for reflective materials.

#### Title 73

### WEIGHTS, MEASURES AND STANDARDS

#### Part III. Weights and Measures

(Editor's Note: Text in existing §301, promulgated in LR 21:706 (July 1995), has been moved to Chapter 5, Materials and Testing, §501, Manuals.)

#### Chapter 3. Minimum Standards for Reflectivity of Work-Site Materials

#### §301. Minimum Standards for Reflective Sign Sheeting

A. Reflective sheeting shall be one of the following types as specified on the plans and conforming to ASTM D 4956 except as modified herein. The sheeting shall be an approved product listed in QPL 13.

1. Type I. A medium-intensity retro reflective sheeting referred to as "engineering grade" and typically enclosed lens glass-bead sheeting.

2. Type II. A medium-high-intensity retro reflective sheeting sometimes referred to as "super engineering grade" and typically enclosed lens glass-bead sheeting.

3. Type III. A high-intensity retro reflective sheeting, that is typically encapsulated glass-bead retro reflective material.

4. Type IV. A high-intensity retro reflective sheeting. This sheeting is typically an unmetallized microprismatic retro

reflective element material.

5. Type V. A super-high-intensity retro reflective sheeting. This sheeting is typically a metallized microprismatic retro reflective element material.

6. Type VI. An elastomeric-high-intensity retro reflective sheeting without adhesive. This sheeting is typically a vinyl microprismatic retro reflective material.

7. Type VII. A super-intensity retro reflective sheeting having high retro reflectivity values at wide entrance angles of +45° and +60°. This sheeting is typically an unmetallized microprismatic retro reflective element material.

8. Type VIII. A super-intensity retro reflective sheeting having optimized performance over a broad range of observation angles. This sheeting is typically an unmetallized microprismatic retro reflective element material.

B. Adhesive Classes. The adhesive required for retro

reflective sheeting shall be Class 1 (pressure sensitive) or Class 2 (heat activated) as specified in ASTM D 4956.

C. Identification Marks. Type II sheeting shall be distinguished by integral identification marks that cannot be removed or affected by physical or chemical methods without causing damage to the sheeting. The markings shall be inconspicuously placed on 12-inch centers and shall be visible from a distance of not more than 3 feet.

D. Alternate Sheeting Types

1. DOTD Type VII. Minimum coefficient of retro reflection shall be as specified in Table 1015-1. Reflectance or daytime luminance shall be as specified in Table 1015-2. Artificially weathered panels exposed for 2,200 hours and evaluated in accordance with Section 7.4 and 8.6 of ASTM D 4956 shall conform to 50 percent of minimum values specified in Table 1015-1.

Observation Angle	Entrance Angle	White	Yellow	Red	Blue	Green	Orange	Flour. Orange
0.2°	-4°	800	660	215	43	80	300	200
0.2°	+30°	400	340	100	20	35	150	120
0.2°	+45°	145	85	25	7.6	12	50	50
0.2°	+60°	35	23	6.6	1.0	2.0	10	10
0.5°	-4°	200	160	45	9.8	20	100	80
0.5°	+30°	100	85	26	5.0	10	50	50
0.5°	+45°	75	60	18	2.8	6.0	20	20
0.5°	+60°	30	20	6.4	2.0	2.0	10	6.0

<sup>A</sup>Minimum Coefficient of Retro Reflection (R<sub>λ</sub>) cd/ft<sup>2</sup>/ft<sup>2</sup> (cd lx<sup>-1</sup>m<sup>2</sup>)

Color	Minimum	Maximum
White	40	--
Yellow	24	45
Red	3.0	15
Blue	1.0	10
Green	3.0	9.0
Orange	12	30
Florescent Orange	30	--

2. DOTD Type VIII. Minimum coefficient of retro reflection shall be as specified in Table 1015-3. Reflectance or daytime luminance shall be as specified in Table 1015-2. Artificially weathered panels exposed for 2,200 hours and evaluated in accordance with Section 7.4 and 8.6 of ASTM D 4956 shall conform to 50 percent of minimum values specified in Table 1015-3.

Table 1015-3 Type VIII Sheeting <sub>A</sub>							
Observation Angle	Entrance Angle	Rotation Angle	White	Yellow	Red	Blue	Green
0.20°	-4°	0°	430	350	70	20	45
0.33°	-4°	0°	300	250	53	15	33
0.50°	-4°	0°	250	200	46	10	25
1.00°	-4°	0°	80	65	14	4.0	10
0.20°	30°	0°	235	190	39	11	24
0.33°	30°	0°	150	130	25	7.0	18
0.50°	30°	0°	170	140	25	7.0	19
1.00°	30°	0°	50	40	11	2.5	5.0
0.20°	40°	90°	150	125	25	6.0	15
0.33°	40°	90°	85	75	14	4.0	8.0
0.50°	40°	90°	35	30	4.0	1.5	3.5
1.00°	40°	90°	20	13	5.0	0.7	2.0
<sub>A</sub> Minimum Coefficient of Retro Reflection (R <sub>A</sub> ) cd/ft <sup>2</sup> (cd lx <sup>-1</sup> m <sup>-2</sup> )							

E. Durability. Type VII and VIII sheeting shall perform satisfactorily for at least seven years (three years for orange) and retain 50 percent of the minimum coefficient of retro reflection in Table 1015-1 and Table 1015-3, respectively.

F. Sheeting Guaranty. The contractor shall supply the department with a guaranty from the sheeting manufacturer stating that if the retro reflective sheeting fails to conform to the performance and durability requirements of §301.F, the sheeting manufacturer shall do the following:

1. If the failure occurs within the first five years (seven years for Type III) from the date of sign fabrication (three years for Type II, Type III and Type VII orange sheeting), the sheeting manufacturer shall restore the sign face, in its field location, to its original effectiveness at no cost to the department for materials, labor, and equipment.

2. If the failure occurs from five to seven years from the date of sign fabrication for Types I, VII and VIII sheeting (except for orange), or from five to 10 years from the date of sign fabrication for Type II and seven to 10 years for Type III sheeting (except for orange), the sheeting manufacturer shall replace the sheeting required to restore the sign face to its original effectiveness at no cost to the department.

3. Replacement sheeting for sign faces, materials, and labor shall carry the unexpired guaranty of the sheeting for which it replaces.

4. The sign fabricator shall be responsible for dating all signs with the month and year of fabrication at the time of sign fabrication. This date shall constitute the start of the guaranty obligation period.

G. Reflective sheeting for temporary signs, barricades and channelizing devices, except drums and cones, shall meet the requirements of ASTM D 4956, Type II or Type III.

H. Reflective sheeting for drums shall be a minimum of 6 inches wide and shall meet the requirements of ASTM D 4956, Type III, and the Supplementary Requirement S2 for reboundable sheeting with the following modifications pertaining to artificial weathering. The reboundable reflective sheeting shall be tested for weather resistance by a 45E southern outdoor exposure for six months as opposed to the accelerated weathering specified in Subsections 8.6 and S2.2.4 of ASTM D 4956.

I. Reflective sheeting for cones shall conform to ASTM D 4956, Type VI.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Weights and Measures, LR 24:703 (April 1998).

### §303. Minimum Standards for Striping

#### A. Temporary Pavement Markings

1. Temporary Tape. Temporary tape shall conform to ASTM D 4592, Type I (removable) or Type II (nonremovable) and shall be an approved product listed in QPL-60.

2. Painted Stripe. Paint shall be an approved traffic paint conforming to Subsection 1015.12. of *Louisiana Specifications for Roads and Bridges*. Glass beads for drop-on applications shall conform to Subsection 1015.13 of *Louisiana Specifications for Roads and Bridges*.

3. Temporary Raised Pavement Markings for Microsurfacing

a. Material Requirements. The temporary raised markers shall be flexible reflective tabs. The markers shall be yellow with amber reflective area on both sides. The body of the marker shall consist of a base and vertical wall made of polyurethane or other approved material and shall be capable of maintaining a reasonable vertical position after installation. The initial minimum coefficient of luminous intensity at an entrance angle of -4E and an observation angle of 0.2E shall be 2.5.

b. The markers shall be of standard size and quality and amenities as manufactured by:

- i. Davidson Plastic Company;
- ii. Renco, Inc.;
- iii. Valterra Products, Inc.; or

iv. an approved equal for traffic marking materials (microsurfacing raised markers).

c. The reflective material shall be protected with an easily removable cover of heat resistant material capable of withstanding and protecting the reflective material from the application of asphalt at temperatures exceeding 325°F.

d. Certificates of Compliance. The contractor shall furnish three copies of certifications from the manufacturer stating that the materials meet the requirements of these specifications.

2. Temporary Raised Pavement Markers

a. Temporary raised pavement markers shall be installed as per manufacturer's recommendation or as directed by the engineer.

b. The temporary raised markers shall be flexible reflective tabs placed at 40-foot intervals on the centerline of the roadway.

c. The markers shall be installed in a manner so that the reflective faces of the markers are perpendicular to a line parallel to the roadway centerline.

d. If, in the opinion of the engineer, the temporary raised markers require removal after permanent striping has been accomplished, they shall be removed in such a manner as the pavement surface will not be unnecessarily damaged.

B. Traffic Paint. The contractor shall have the option of furnishing either alkyd traffic paint or water-borne traffic paint; however, the same type paint shall be used throughout the project. Each paint container shall bear a label with the name and address of manufacturer, trade name or trade mark, type of paint, number of gallons, batch number and date of manufacture. Paints shall be approved products listed in QPL-36; shall show no excessive settling, caking or increase in viscosity during six months of storage; and shall be readily stirred to a suitable consistency for standard spray gun application. An infrared curve shall be generated in accordance with DOTD TR 610 and compared with the standard curve made during the initial qualification process.

1. Alkyd Traffic Paint. This material shall be rapid-setting compound suitable for use with hot application equipment. The material shall meet the following requirements:

Property	Test Method	Requirements	
		Min	Max
Weight, lb/gal	ASTM D 1475	12.0	
Viscosity @ 25°C, Krebs Units	ASTM D 562	85	115
Dry to No Pick Up	ASTM D 711		180
Directional Reflectance, % White Yellow	ASTM E 97	80 50	
Bleeding	Fed. Spec. TT-P-115	Pass	
Total Solids, % by weight	ASTM D 1644, Method A	70	
Film Shrinkage	(a)	Pass	
Hiding Power	(b)	Pass	
Pigment, %	ASTM D 2371	50	55
Nonvolatiles in Vehicle, % by weight	ASTM D 215	35	
Flexibility	Fed. Spec. TT-P-1952	Pass	
Pigment Composition	(c)	Pass	

a. Film Shrinkage. With a film applicator, cast a wet film with a thickness of 30 mils over a smooth glass plate. Allow sample to cure at room condition for four to five hours. Using a micrometer, measure the plate thickness before the film is cast using five measurements to obtain an average. The cured film shall have a minimum thickness of 12 mils.

b. Hiding Power. The paint shall have a wet hiding power of at least 350 square feet per gallon. The compound shall have sufficient hiding power to cover any pavement when applied at a wet film thickness of 15 mils.

c. Pigment Composition. White paint shall contain at least 1.5 pounds of titanium dioxide pigment per gallon as determined using DOTD TR 523 with at least 92 percent TiO<sub>2</sub> content. The TiO<sub>2</sub> shall conform to ASTM D 476. Yellow paint shall contain at least 1.3 pounds of medium chrome yellow pigment per gallon as determined using DOTD TR 523. Medium chrome yellow pigment shall conform to ASTM D 211, Type III.

2. Water Borne Traffic Paint. This material shall be a rapid setting waterborne compound suitable for use with hot application equipment. The material shall meet the following requirements:

Property	Test Method	Requirements	
		Min	Max
Weight, lb/gal	ASTM D 1475	12.0	
Viscosity @ 25°C, Krebs Units	ASTM D 562	75	90
Drying to No Pickup, min.	ASTM D 711		10
Dry through, min.	ASTM D 1640		20

Volume Solids	---	58	
Total Solids, % by weight	ASTM D 2369	70	
Pigment, % by weight	ASTM D 3723	45	55
Nonvolatiles in Vehicle % by weight	Fed. Test 141B	40	
Bleed Ratio	Fed. Spec. TT-P-1952	0.96	
Daylight Reflectance, % White Yellow	Fed. Test 141B	85 54	
Hiding Power (Contract Ratio at 10 mils)	Fed. Test 141B	0.96	
Flexibility	Fed. Spec. TT-P-1952	Pass	
Drying Time, min.	(a)		3
Fineness of Grind	ASTM D 1210	3	
Freeze-Thaw	ASTM D 2243	Pass	

Heat Stability	Fed. Spec. TT-P-1952	Pass	
Shelf Life, months	(b)	12	
Color	(c)	Pass	
Volatile Organic Compounds (g/L)			250
Pigment Composition	(d)	Pass	

a. Drying Time to No Track. Paint applied at 15 mils wet on the road surface with paint heated to 120-150EF shall not show tracking when a standard size automobile crosses in a passing maneuver at three minutes.

b. The paint shall show no excessive setting, caking or increase in viscosity during 12-month storage and shall be readily stirred to a consistency for use in the striping equipment.

c. Color. Yellow paint shall conform to the requirements of the following table when tested in accordance with ASTM E 1349. White shall be a clean, bright, untinted binder.

Color Specification Limits (Daytime)								
Color	1		2		3		4	
	X	Y	X	Y	X	Y	X	Y
YELLOW	0.476	0.452	0.498	0.478	0.522	0.454	0.492	0.435

(The four pairs of chromaticity coordinates determine the acceptable color in terms of the CIE 1931 Standard Colorimetric system measured with Standard Illuminant C.)

d. The white paint shall contain a minimum of 1.0 pound per gallon of titanium dioxide as determined using DOTD TR 523. The titanium dioxide shall conform to ASTM D 476.

C. Glass Beads for Drop-On Application. Glass beads shall conform to AASHTO Designation: M 247, Type I, with the following modifications.

Gradation of Glass Beads	
Sieve Designation Alternative No.	Mass Percent Passing
20	80 - 100
30	65 - 85
40	--
50	15 - 35
80	--
100	0 - 5

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Weights and Measures, LR 24:705 (April 1998).

### §305. Minimum Standard for Thermoplastic Pavement Markings

A. Description. This specification covers hot-sprayed or hot-extruded reflective thermoplastic compound for pavement markings on asphaltic or portland cement concrete pavement. Thermoplastic marking material applied to asphaltic surfaces shall consist of an alkyd-based formulation. Thermoplastic marking material applied to portland cement concrete surfaces shall consist of either an alkyd-based or hydrocarbon-based formulation. Material shall be so manufactured as to be applied by spray or extrusion to pavement in molten form, with internal and surface application of glass spheres, and upon cooling to normal pavement temperature, shall produce an adherent, reflectorized pavement marking of specified thickness and width, capable of resisting deformation.

1. Materials shall be approved products listed in QPL 63 and shall conform to AASHTO M 249. Material shall not scorch, break down, or deteriorate when held at the plastic temperature specified in Subsection 732(03)(d)(1) for four hours or when reheated four times to the plastic temperature.

Temperature-vs-viscosity characteristics of plastic material shall remain constant when reheated four times, and shall be the same from batch to batch. There shall be no obvious change in color of material as the result of reheating four times, or from batch to batch.

2. Suitability for Application. Thermoplastic material shall be a product especially compounded for pavement markings. Markings shall maintain their original dimension and placement and shall not smear or spread under normal traffic at temperatures of below 140EF. Markings shall have a uniform cross section. Pigment shall be evenly dispersed throughout its thickness. The exposed surface shall be free from tack and shall not be slippery when wet. Material shall not lift from pavement in freezing weather. Cold ductility of material shall be such as to permit normal movement with the pavement surfaced without chipping or cracking.

B. Inverted Profile Thermoplastic Pavement Markings. Materials shall conform to AASHTO M 249 and the specifications as stated herein with the following modifications:

1. Bead Content

U.S. Standard Sieve Size (Microns)	Class A - 10% min. (by wt.) of Thermoplastic Compound, Percent Retained	Class B - 25% min. (by wt.) of Thermoplastic Compound
14 (1400)	0 - 1	Beads shall meet gradation requirement of AASHTO M 247, Type I
16 (1190)	0 - 20	
18 (1000)	0 - 45	
20 (840)	30 - 80	
30 (595)	20 - 50	
Pan	0 - 10	

2. Bead Quality. The glass beads shall be coated with A-116 Silane or other adhesion promoting coating. The glass beads shall have a maximum of 3 percent irregular particles and a maximum of 5 percent are inclusions. The percentage of true sphere shall be 90 percent minimum for Class A beads and 80 percent minimum for Class B beads.

3. Binder Content. The binder content of the thermoplastic material shall be 19 percent minimum.

4. Titanium Dioxide. The titanium dioxide shall meet ASTM D476, Type II, Rutile grade—93 percent minimum titanium content.

5. Yellow Pigment. The yellow pigment for the yellow thermoplastic material shall be 4 percent minimum.

6. Specific Gravity. The specific gravity of the thermoplastic pavement marking material shall not exceed 2.35.

7. Flowability. After heating the thermoplastic material for 4 hours ±5 minutes at 425° ± 3°F (218° ± 2°C) and testing flowability, the white thermoplastic shall have a maximum percent residue of 22 percent and the yellow thermoplastic shall have a maximum residue of 24 percent.

8. Reflectivity. The initial reflectance for the in-place marking shall have the minimum reflectance value of 450 mcd/lux/m<sup>2</sup> for white and 350 mcd/lux/m<sup>2</sup> for yellow when measured with a geometry of 1.5° observation angle and 86.5° entrance angle.

9. Wet Reflectivity. The minimum in-place marking when wet shall have the minimum reflectance value of 200 mcd/lux/m<sup>2</sup> for white and 175 mcd/lux/m<sup>2</sup> for yellow when measured with a geometry of 1.5° observation angle and 86.5° entrance angle. The stripe shall be wet utilizing a pump-type garden sprayer for 30 seconds. After five seconds, place the reflectometer on the stripe and measure the retro reflectance.

10. Retained Reflectivity. The thermoplastic pavement marking material shall retain the minimum reflectance value of 130 mcd/lux/m<sup>2</sup> for at least four years after placement. Failure to meet this requirement shall require the contractor to replace the portion of the material shown to be below these minimums. The contractor shall supply a written warranty indicating the terms of this requirement.

11. Inverted Profile. The thermoplastic pavement marking material shall be applied to have individual profiles having a minimum height of 0.140 inches with the recessed inverted profiles having a thickness of 0.025 to 0.050 inches. The profiles shall be well defined and not excessively run back together.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Weights and Measure, LR 24:707 (April 1998).

**§307. Minimum Standards for Preformed Plastic Pavement Marking**

A. Preformed plastic pavement marking tape shall be approved products listed in QPL 64 and shall conform to ASTM D 4505 Type I, Type I—High Performance (as specified below) or Type V, except as modified herein. The marking tape shall be Grade A, B, C, D, or E. The type and color shall be in accordance with the plans and the *Manual on Uniform Traffic Control Devices*.

B. Thickness. All preformed plastic pavement marking tape shall have a minimum overall thickness of 60 mils when tested without the adhesive.

C. Friction Resistance. The surface of the Type I preformed plastic pavement marking tape shall provide a minimum frictional resistance value of 35 British Polish Number (BPN) when tested according to ASTM E 303. The surface of the Type I—High Performance and Type V preformed plastic pavement marking tape shall provide a minimum frictional resistance value of 45 British Polish Number (BPN) when tested according to ASTM E 303, except values for the Type V are calculated by averaging values taken at downweb and a 45° angle from downweb.

D. Retro Reflective Requirements. The performed plastic pavement marking tape shall have the following minimum specific luminance values when measured in accordance with ASTM D 4061.

Type	Observation Angle	Entrance Angle	Specific Luminance mcd/ft <sup>2</sup> /fc	
			White	Yellow
I	0.2°	86°	500	400
	1.0°	86.5°	300	175
I-High Performance	0.2°	86°	700	560
	1.0°	85.5°	400	225
V	0.2°	86°	1100	800
	1.0°	86.5°	700	500

E. Durability Requirements. The Type V preformed plastic pavement marking tape shall show no appreciable fading, lifting or shrinkage for at least four years after placement for longitudinal lines and at least two years after placement for symbols and legends.

F. The Type V preformed plastic pavement marking tape shall retain the following reflectance values for at least four years after placement for longitudinal lines and at least two years after placement for symbols and legends.

Observation Angle	Entrance Angle	Specific Luminance mcd/ft <sup>2</sup> /fc	
		White	Yellow
1.0°	86.5°	100	100

G. Plastic Pavement Marking Tape Guaranty (Type V). The contractor shall provide the department with a guaranty from the manufacturer stating that if the plastic pavement marking tape fails to conform to the performance and durability requirements of §307.G within four years, the manufacturer will restore the plastic pavement marking tape to its original effectiveness at no cost to the department for materials, labor, and equipment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Weights and Measures, LR 24:708 (April 1998).

**§309. Minimum Standards for Raised Pavement Markers**

A. Markers shall conform to ASTM D4280, and be either nonreflectorized or reflectorized, as specified. Markers shall be approved products listed in QPL9. Infrared curves of materials used in markers shall match approved curves on file at the department's Materials and Testing Section.

B. Temporary Raised Pavement Markers for Asphaltic Surface Treatment

1. Material Requirements. The temporary raised markers shall be flexible reflective tabs. The markers shall be yellow with amber reflective area on both sides. The body of the marker shall consist of a base and vertical wall made of polyurethane or other approved material and shall be capable of maintaining a reasonable vertical position after installation. The initial minimum reflectivity at an entrance angle of 4° and an observation angle of 0.2° shall be 2.5.

2. The markers shall be of standard size and quality with amenities as manufactured by:

- a. Davidson Plastics Company;
- b. Renco, Inc.;
- c. Valterra Products, Inc.; or
- d. an approval equal for traffic marking materials (asphaltic surface treatment raised markers).

3. The reflective material shall be protected with an easily removable cover of heat resistant material capable of withstanding and protecting the reflective material from the application of asphalt at temperatures exceeding 325°F.

4. Certificates of Compliance. The contractor shall furnish three copies of certifications from the manufacturer stating that the materials meet the requirements of these specifications.

C. Temporary Raised Pavement Markers for Microsurfacing

1. Material Requirements. The temporary raised markers shall be flexible reflective tabs. The markers shall be yellow with amber reflective area on both sides. The body of the marker shall consist of a base and vertical wall made of polyurethane or other approved material and shall be capable of maintaining a reasonable vertical position after installation. The initial minimum reflectivity at an angle of incidence of 4° and an observation angle of 0.2° shall be 2.5.

2. The markers shall be of standard size and quality with amenities as manufactured by:

- a. Davidson Plastics Company;
- b. Renco, Inc.;
- c. Valterra Products, Inc.; or
- d. an approval equal for traffic marking (microsurfacing raised markers).

3. The reflective material shall be protected with an easily removable cover of heat resistant material capable of withstanding and protecting the reflective material from the application of asphalt at a temperature of 325°F.

4. Certificates of Compliance. The contractor shall furnish three copies of certificates from the manufacturer stating that the materials meet the requirements of these specifications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Weights and Standards, LR 24:709 (April 1998).

Frank M. Denton  
Secretary

9804#052

**RULE**

**Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission**

Three-Day Basic and Saltwater Nonresident Recreational Fishing License Fees (LAC 76:VII.407)

The Wildlife and Fisheries Commission hereby adopts a rule relative to fees for three-day basic and saltwater nonresident recreational fishing licenses.

**Title 76**

**WILDLIFE AND FISHERIES**

**Part VII. Fish and Other Aquatic Life**

**Chapter 4. License and License Fees**

**§407. Three-Day Basic and Saltwater Nonresident**

**Recreational Fishing License Fees**

A. In lieu of the basic recreational fishing license, nonresidents may purchase a three-day basic recreational fishing license for a fee of \$10. This three-day license shall be valid for three consecutive days, including the day of issue.

B. In lieu of the saltwater recreational fishing license, a nonresident may purchase a three-day saltwater recreational fishing license at a fee of \$15. This three-day license shall be valid for three consecutive days, including the day of issue.

C. The fees in §407 hereby supersede those fees established for the licenses in this Section at R.S. 56:302.1(B)(1) and (2)(a).

D. The effective date of the fees in §407 shall be July 1, 1998.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(28).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 24:710 (April 1998).

Thomas M. Gattle, Jr.  
Chairman

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