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Executive Orders

EXECUTIVE ORDER BJ 08-13

Notice of Policy and Purpose of the
Office of Inspector General

WHEREAS, the citizens of this state demand and deserve a state government that is free from fraud and corruption;

WHEREAS, the citizens of this state require a state government that is a good steward of taxpayer dollars and seeks to eliminate waste and inefficient use of the public fisc;

WHEREAS, Act 12 of the First Extraordinary Session of 2008 creating the Office of the State Inspector General has now been signed into law;

WHEREAS, the policy and purpose for the Office of the State Inspector General is to pursue the prevention and detection of waste, inefficiencies, mismanagement, misconduct, abuse, fraud, and corruption in all departments, offices, agencies, boards, commissions, task forces, authorities, and divisions of the executive branch of state government as specifically provided in Title 36 of the Louisiana Revised Statutes of 1950;

WHEREAS, the inspector general by law shall receive complaints of waste, inefficiency, mismanagement, misconduct, abuse, fraud, or corruption in covered agencies and determine whether they warrant investigation by the inspector general or by appropriate federal, state, or local agencies;

WHEREAS, the Office of the State Inspector General shall maintain a toll-free fraud hotline number and web site for anonymous reporting;

WHEREAS, the employees of this state are a major resource for the Office of the State Inspector General in the pursuit of its mandate as they are in direct day-to-day involvement in the activities of state government; and

WHEREAS, reporting can not only be made anonymously through the Office of the State Inspector General's toll-free fraud hotline or its website but whistleblower protection is available to state employees based on LSA-R.S. 42:1169.

NOW THEREFORE, I, Bobby Jindal, Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and the laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: The heads of all departments, offices, agencies, boards, commissions, task forces, authorities, and divisions of the executive branch of state government as specifically provided in Title 36 of the Louisiana Revised Statutes of 1950 including universities and other institutions of higher learning are to give notice to their employees of the policy and purpose of the Office of the State Inspector General and the importance of their role in reporting knowledge of fraud, corruption, abuse and waste taking place in state government;

SECTION 2: This notice should include prominent placement of posters from the Office of State Inspector

General in common areas of the workplace including locations where required notices to employees are normally posted;

SECTION 3: These posters will advise that the Office of the State Inspector General wants to help Louisiana state employees and the public protect the integrity, effectiveness, and efficiency of the executive branch of state government by eliminating waste and corruption and instruct that they report suspected waste, mismanagement, fraud, and corruption to the state inspector general; and

SECTION 4: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 20th day of March, 2008.

Bobby Jindal
Governor

ATTEST BY
THE GOVERNOR
Jay Dardenne
Secretary of State
0804#043

EXECUTIVE ORDER BJ 08-14

Capital Outlay Reform

WHEREAS, Article VII, Section 11(C) of the Constitution of Louisiana requires the governor to submit to the legislature a proposed five-year capital outlay program and request implementation of the first year of the program (the capital outlay bill);

WHEREAS, the Constitution of Louisiana requires that prior to inclusion in the capital outlay bill, each capital improvement project shall be evaluated through a feasibility study which must include an analysis of need and estimates of both construction and operating costs;

WHEREAS, Article VII, Section 6 of the Constitution of Louisiana further provides that the capital outlay bill shall provide the nature and location, the amount allocated to each, and the priority for each capital improvement project. This section further limits the amount of net state tax supported debt which may be issued in any fiscal year;

WHEREAS, the governor as chief executive officer of the state is charged with submitting to the legislature an operating budget and capital budget under La. Const. Article IV, Section 5, which budgets cannot exceed the official forecast of the Revenue Estimating Conference or the expenditure limit under La. Const. Article VII, Section 11;

WHEREAS, Article VII, Section 6(F) of the Constitution of Louisiana provides for a limitation on the amount of net state tax supported debt which may be issued

by the state in any fiscal year and further the capital outlay bill for many years has contained a limitation on the amount of cash lines of credit which shall be granted or general obligation bonds which shall be authorized or issued in any fiscal year;

WHEREAS, the amount of Priority 5 non-cash lines of credit authorized by the legislature and granted by the State Bond Commission has steadily increased in the last four years resulting in a commitment facing the new governor and legislature of over One Billion Four Hundred Million Dollars; and

WHEREAS, this current over-commitment of lines of credit has created an untenable situation that requires the institution of proper controls in order to prevent a recurrence of this situation in the future;

NOW THEREFORE, I, BOBBY JINDAL, Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and the laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: Capital Outlay Program:

A. The current capital outlay development system has created an untenable situation that must be transformed to insure that state funds directed to capital outlay include only those projects that meet the requirements of the constitution and laws of this state and accordingly I hereby direct the Division of Administration to do the following:

1. Develop standards for feasibility analysis as well as policies and procedures for feasibility analysis of all projects for which funding is requested through the state capital outlay program; and

2. Develop policies and procedures that insure that the capital outlay bill, in Priorities 1, 2 and 5 does not exceed both the limitation on the issuance of general obligation bonds and the constitutional limitation of net state tax supported debt by no more than can be reasonably managed;

B. I hereby officially recognize and endorse the self-imposed General Obligation Bond Cap of \$200,000,000, adjusted for construction inflation since 1994, and order the imposition of this Bond Cap on all cash lines of credit submitted to the State Bond Commission by the Division of Administration.

C. I hereby direct that the capital outlay bill shall not include any new project for a non-state entity which does not provide for a local or other match which is not less than twenty-five percent of the total cost of the project, unless it is demonstrated that the match requirement exceeds the resources available for the project or that the project is of such an emergency nature that the health and safety of its citizens would be at risk. In order to insure this, I direct the Division of Administration to do the following:

1. Develop a needs-based formula to be used to demonstrate lack of available resources; and

2. Develop rules pursuant to the Administrative Procedures Act to define acceptable match requirements and limitations.

D. I hereby direct the Division of Administration to develop rules pursuant to the Administrative Procedures Act to accomplish the following:

1. Establishing a system for comparatively evaluating projects requested through the capital outlay

program based on the merits of projects and a priority ranking of such projects;

2. Developing rules pursuant to the Administrative Procedures Act to establish standards for feasibility analysis of projects;

3. Developing rules pursuant to the Administrative Procedures Act to establish standards for architectural programming; and

4. Providing that targets for general obligation bond funding will be limited to 80% state and 20% non-state projects.

E. I further declare that I will not submit, nor will I support, the submission of any project to the State Bond Commission that circumvents the capital outlay program as provided in the constitution and laws of this state.

SECTION 2: This Order is effective upon signature and shall continue in effect until amended, modified, terminated or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 8th day of April, 2008.

Bobby Jindal
Governor

ATTEST BY
THE GOVERNOR
Jay Dardenne
Secretary of State
0804#044

EXECUTIVE ORDER BJ 08-15

Gulf Opportunity Zone Bond Allocation Procedures
Rescinding Executive Order No. KBB 2006-09
and No. KBB 2006-27

WHEREAS, the Gulf Opportunity Zone Act of 2005 authorizes tax-exempt bond financing for Qualified Gulf Opportunity Zone Bonds, i.e., bonds issued by the states of Alabama, Louisiana and Mississippi or any political subdivision thereof, and meeting certain other criteria set forth in 26 U.S.C.A. § 1400N(a);

WHEREAS, in the case of a bond which is required under State law to be approved by the bond commission of such State, 26 U.S.C.A. § 1400N(a)(2)(c) requires such bond to be designated by the bond commission as Qualified Gulf Opportunity Zone Bond;

WHEREAS, Article VII, Section 8 of the Louisiana Constitution requires all bonds issued or sold by the state or by any political subdivision to be approved by the Louisiana State Bond Commission;

WHEREAS, Executive Order No. KBB 2006-9 dated February 16, 2006 and Executive Order No. KBB 2006-27 dated June 12, 2006 require an allocation by the governor from the Qualified Gulf Zone Opportunity Zone Bond Pool, in addition to the State Bond Commission's approval of bonds as Qualified Gulf Opportunity Zone Bonds; and

WHEREAS, under the Gulf Opportunity Zone Act of 2005, no allocation by the governor is necessary for bonds issued in Louisiana, as such bonds are required by State law to be approved by the State Bond Commission;

NOW THEREFORE, I, BOBBY JINDAL, Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and the laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: Executive Order No. KBB 2006-9 dated February 16, 2006, and Executive Order No. KBB 2006-27 dated June 12, 2006, are hereby terminated and rescinded.

SECTION 2: This Order is effective upon signature and shall continue in effect until amended, modified, terminated or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state

of Louisiana, at the Capitol, in the city of Baton Rouge, on this 7th day of April, 2008.

Bobby Jindal
Governor

ATTEST BY
THE GOVERNOR
Jay Dardenne
Secretary of State
0804#045

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of Agriculture and Environmental Sciences

2, 4-D or Products Containing 2, 4-D—Application Restriction (LAC 7:XXIII.143)

In accordance with the Administrative Procedure Act (R.S. 49:950 et seq.) and R.S. 3:3202(A), the Commissioner of Agriculture and Forestry is exercising the emergency provisions of the Administrative Procedure Act in amending the following Rule for the implementation of regulations governing the use of the pesticide 2, 4-D and products containing 2, 4-D.

2, 4-D and products containing 2, 4-D are an efficient and effective pesticide in the control of certain pests in agricultural crops. Restrictions on the application of 2, 4-D is necessary to prevent drift on to non-target areas and harm to other crops and vegetation. The current restrictions in the permanent rules and regulations do not allow for the use of 2, 4-D and products containing 2, 4-D on rice crops grown in certain areas of Allen and Evangeline Parish. The current restriction subjects the rice crops in these areas to crop pests which can destroy the rice crops in those areas or severely limit the amount of rice harvested. Such destruction or reduction of the rice crops in those areas will imperil the livelihood of the rice farmers producing those crops and adversely affect the agricultural economies of those parishes and the welfare of the citizens of those parishes.

The commissioner has, therefore, determined that this Emergency Rule implementing restrictions on the application of 2, 4-D, and products containing 2, 4-D is necessary to prevent an imminent peril to the public health, welfare, and safety of Louisiana citizens.

This Rule becomes effective on April 1, 2008 and will remain in effect 120 days.

Title 7

AGRICULTURE AND ANIMALS

Part XXIII. Pesticide

Chapter 1. Advisory Commission on Pesticides

Subchapter I. Regulations Governing Application of Pesticides

§143. Restrictions on Application of Certain Pesticides

A. - P.2. ...

3. 2, 4-D or Products Containing 2, 4-D; Application Restriction

a. Aerial application of 2, 4-D or products containing 2, 4-D is limited to only permitted applications annually between April 1 and May 1 in the following parishes.

i. Allen (East of U.S. Highway 165 and North of U.S. Highway 190), Avoyelles (West of LA Highway 1), Evangeline, Pointe Coupee (West of LA Highway 1 and North of U.S. Highway 190), Rapides, and St. Landry (North of U.S. Highway 190).

ii. Applications of 2, 4-D, or products containing 2, 4-D, shall not be made in any manner by any commercial or private applicators between May 1 and August 1, in the areas listed in LAC 7:XXIII.143.P.3.a.i, except commercial applications of 2, 4-D or products containing 2, 4-D is limited to only permitted applications annually between May 1 and August 1 in the area south of Deer Farm Road and Carrier Road, north of U.S. Highway 190 between U.S. Highway 165 and Castor Creek in Allen Parish and south of LA Highway 104, north of US Highway 190 and west of LA Highway 13 in Evangeline Parish, and except upon written application to and the specific written authorization by the Assistant Commissioner of the Office of Agricultural and Environmental Sciences, or in his absence the Commissioner of Agriculture and Forestry.

4. Procedures for Permitting Applications of 2, 4-D or Products Containing 2, 4-D

a. Prior to any application of 2, 4-D, or products containing 2, 4-D, a permit shall be obtained in writing from the Louisiana Department of Agriculture and Forestry. Such permits may contain limited conditions of applications and shall be good for five days from the date issued. Growers or commercial ground or aerial applicators shall obtain permits from the Director. Commercial ground and aerial applicators shall fax or electronically submit daily to DPEP all permitted or written authorized applications of 2, 4-D or products containing 2, 4-D. The faxed information shall include but not be limited to the following:

4.a.i. - 5.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3242 and R.S. 3:3249.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:189 (April 1983), amended LR 10:196 (March 1984), LR 11:219 (March 1985), LR 11:942 (October 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:953 (September 1992), LR 19:1119 (September 1993), LR 21:668 (July 1995), LR 24:281 (February 1998), LR 24:2076 (November 1998), LR 26:1428 (July 2000), LR 26:1966 (September 2000), LR 27:279 (March 2001), LR 27:1672 (October 2001), LR 33:1855 (September 2007), LR 34:

Mike Strain, DVM
Commissioner

0804#015

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of the Commissioner

Tax Credit for Certain Milk Producers
(LAC 7:XXXI.Chapter 5)

The Louisiana legislature, by Acts 2007, No. 461, §1, enacted R.S. 47:6026 relative to providing a refundable tax credit for certified milk producers. Section 2 of Act 461

provides that the provisions of the Act become effective for all taxable periods beginning on or after January 1, 2007. The Louisiana Law Institute, by the powers granted to it by the legislature, has redesignated the section as R. S. 47:6032. Act 461 provides that the Department of Agriculture and Forestry shall promulgate regulations establishing the provisions of the announced production price. R. S. 3:2(A) provides that the Commissioner of Agriculture and Forestry shall head the department and shall exercise all functions of the state relating to the promotion, protection, and advancement of agriculture and forestry, except for research and educational functions expressly allocated by the constitution or by law to other state agencies.

The legislature has made the provisions of Act 461 effective for calendar year 2007 so that Louisiana milk producers who qualify for the credit may take advantage of this tax credit for the 2007 taxable year. The Commissioner of Agriculture and Forestry, on behalf of the Department of Agriculture and Forestry, is proposing the following rules and regulations to establish the announced production price and to provide for the orderly administration of the provisions of R. S. 47:6032.

If regulations are not in place before the end of 2007 Louisiana milk producers will not be able to take advantage of the tax credit, thereby frustrating the will of the Legislature and creating a substantial probability that additional Louisiana milk producers will go out of business. The number of dairy farmers and total milk production continues to decline in Louisiana. The loss of Louisiana milk producers has been occurring at an alarming rate over the past few years. There is a point of critical mass whereas the loss in total production results in a loss in supporting infrastructure. This infrastructure is the mainstay of the milk production industry and consists of feed dealers, equipment suppliers, milk haulers, veterinarians and other businesses, all of whom provide employment, boost the local economy, and add additional tax revenues to local, state, and federal coffers. In addition to this macro effect, remaining dairy farmers end up paying more to maintain a smaller infrastructure or lose it all together.

The extent of the loss of Louisiana milk producers is such that there is an imminent peril that the Louisiana's dairy industry will cease to exist without measures that assist the Louisiana milk producers. The loss of milk producers will also pose a clear danger that the supporting infrastructure will also cease to exist, or at least, be substantially reduced in size. Louisiana would then suffer the loss of a substantial segment of its economy, thereby affecting employment, the local and state economies, and tax revenues. Louisiana consumers of milk would also be deprived of sources of fresh milk produced locally in Louisiana.

The Commissioner of Agriculture and Forestry has, therefore, determined that this Emergency Rule is necessary in order to fulfill the will of the legislature, and to protect the public welfare and the economy of this state.

This Rule becomes effective upon signature, March 31, 2008, and will remain in effect 120 days, unless renewed by the Commissioner of Agriculture and Forestry or until permanent rules are promulgated in accordance with law.

Title 7

AGRICULTURE AND ANIMALS

Part XXXI. Milk, Milk Products and Substitutions

Chapter 5. Tax Credit for certain Milk Producers

§501. Purpose and Effective Date

A. These regulations implement the provisions of R.S. 47:6032.

B. These regulations are effective for taxable periods beginning on or after January 1, 2007.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2(A) and R.S. 47:6032(B).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner LR 34:

§503. Definitions

Announced Production Price—the average of the production price of milk for the three years immediately preceding the calendar year for which tax credits may be given.

Certified Milk Producer—a milk producer who has been certified as such to the Department of Revenue by the Department of Health and Hospitals in accordance with R.S. 47:6026(E).

Commissioner—the Louisiana Commissioner of Agriculture and Forestry or his designee.

Federal Milk Market Order (FMMO)—a regulation issued by the United States secretary of agriculture specifying minimum prices and conditions for the purchase of milk from dairy farmers within a specified geographic area.

Information Release Form—a form entitled "Authorization to Release Information" which authorizes the milk market administrator or other persons to release information held by the administrator or other person relative to that milk producer.

LDAF—the Louisiana Department of Agriculture and Forestry or its designee.

Milk Handler—the person, including a dairy cooperative, who collects or receives a milk producer's milk directly from the milk producer's dairy.

Milk Market Administrator—the market administrator of the FMMO that covers this state.

Milk Producer—a resident taxpayer of the state of Louisiana who is engaged in the business of producing milk in this state from his own cows.

Non-Pooled Milk—milk that is produced in Louisiana for sale but is not included in milk production records maintained by the milk market administrator. Examples of non-pooled milk include milk pooled on FMMOs that do not cover this state, milk that has been sold but not pooled on any FMMO, and milk that had to be dumped or destroyed for legitimate reasons.

Non-Pooled Milk Form—a form or list entitled "non-pooled milk production certification" submitted by a milk producer or milk handler showing the amount of non-pooled milk produced by a milk producer for a year for which the credit is applied for.

Production Price—an annual price derived by averaging over 12 months the monthly sum of the market balancing factor, (which is the monthly arithmetic difference between the average of the sums of the uniform prices plus the associated transportation costs of moving milk from its

export points of origin to New Orleans, Louisiana less the monthly uniform price in the FMMO that covers this state), plus the cost of milk production in this state as determined by the LSU Agricultural Center's Department of Agricultural Economics and Agribusiness.

Tax Credit—the milk producer refundable tax credit established by R. S. 47:6032.

Uniform Price—the weighted average price established in the FMMO covering this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2(A) and R.S. 47:6032(B).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner LR 34:

§505. Cooperative Endeavor Agreements

A. For the purpose of implementing the provisions of Acts 2007, No. 461 and these regulations LDAF, through the commissioner, may enter into cooperative endeavor agreements with other state agencies, federal agencies, or private entities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2(A) and R.S. 47:6032(B).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner LR 34:

§507. Responsibilities of Milk Producers and Milk Handlers

A. It shall be the responsibility of any milk producer who wants to apply for a tax credit in the year for which the credit is applied for to:

1. hold a milk producer permit during the year for which the credit is applied for under Louisiana Administrative Code, Title 51, Public Health Sanitary Code, Part VII, Milk, Milk Products, and Manufactured Milk Products and meet the requirements of the 2007 revision to the Grade A Pasteurized Milk Ordinance of the United States Food and Drug Administration;

2. ensure that the records of the Department of Health and Hospitals reflect that during the year for which the credit is applied for the milk producer was in compliance with the requirements set out in Paragraph 1 for purposes of being certified as a milk producer;

3. timely submit to LDAF a properly completed and signed information release form;

4. timely submit to LDAF a properly completed and signed non-pool milk form for the year for which the credit is applied for if the milk producer's milk did not go into the FMMO milk pool for Louisiana and is not listed on a non-pooled milk form submitted by the milk producer's milk handler. The form shall certify the amount of such non-pool milk produced by the milk producer for that year and the reasons why the milk is non-pooled milk and why the milk is not listed on the certification form submitted by the milk handler;

5. timely submit to LDAF all other forms and information, properly completed and signed, that may be required by that department;

6. timely submit an application for the tax credit to the Department of Revenue on forms supplied by that department and in accordance with that department's regulations and policies.

B. It shall be the responsibility of each milk handler to timely submit to LDAF a properly completed and signed non-pooled milk form showing the amount of non-pooled milk collected or received by the milk handler from each of

its milk producers. A milk handler may substitute a list showing its milk producers who have non-pooled milk, the amount of non-pooled milk, and the reason the milk is non-pooled milk for the non-pooled milk form.

C. Failure of a milk producer or milk handler to fulfill the responsibilities set out in Subsections A and B of this Section may result in the milk producer being disqualified from receiving any tax credit for the applicable tax year for which the credit is applied for or receiving less than the maximum allowable tax credit for the year for which the credit is applied for.

D. All forms and lists shall be free of false statements or false representations of any material fact. A milk producer or milk handler may be referred to the appropriate district attorney for possible criminal prosecution under R.S. 14:133 for filing false public records if the milk producer or milk handler files with LDAF or other state agency a form that contains a false statement or false representation of a material fact or provides false information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2(A) and R.S. 47:6032(B).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner LR 34:

§509. Forms; Distribution

A. All forms required by these regulations to be filled out and submitted by a milk producer or milk handler may be obtained from LDAF.

B. LDAF shall submit all forms relative to the tax credit which are received from milk producers and milk handlers to the proper state or federal agency or other appropriate entity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2(A) and R.S. 47:6032(B).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner LR 34:

§511. Determination of the Announced Production Price

A. The announced production price shall be determined based on the following factors:

1. the average uniform price of milk in the top five states from which milk is imported to Louisiana;

2. the average transportation cost of importing milk from those five states;

3. the cost of production in Louisiana.

B. The determination of the announced production price shall be based on calculations made by the Louisiana State University Agricultural Center, Department of Agricultural Economics and Agribusiness, using the factors set out in Subsection A of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2(A) and R.S. 47:6032(B).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner LR 34:

§513. Determination of Tax Credit for Individual Producers and Eligible Quarters

A. LDAF shall, no later than April 30 of each year, provide the Department of Revenue with a chart for the previous year for which the credit is applied for showing the names of each participating certified milk producer, the amount of milk produced by each, the anticipated amount of tax credit each certified milk producer is eligible to receive, and any other information necessary or proper for the Department of Revenue to pay the tax credits.

1. Prior to submission of the chart to the Department of Revenue, a review committee composed of a person appointed by the commissioner, one person appointed by the secretary of health and hospitals, one person appointed by the secretary of revenue, and one certified milk producer appointed by the commissioner shall review and approve the chart.

B. Determination of the amount of milk produced during a calendar year by a participating certified milk producer shall be based on information obtained from the non-pooled milk certification forms and from records maintained by the milk market administrator.

C. Determination of the anticipated amount of tax credit each certified milk producer is eligible to receive shall be based on:

1. the amount of milk produced by the certified milk producer;

2. the maximum amount of tax credit the certified milk producer would be eligible to receive based on the amount of milk produced by that certified milk producer and the tax credit schedule set out in R.S. 47:6032(C);

3. if applicable, the percentage or ratio shown by dividing the statutory cap on the tax credit by the aggregate of the tax credit that all the certified milk producers would be eligible to receive if there was no statutory cap in place; and

4. the number of eligible quarters to which the tax credit shall be prorated:

a. a quarter shall be considered to be an eligible quarter for purposes of the tax credit whenever the uniform price for any one month of the quarter drops below the announced production price.

NOTE: For example, assume that a participating certified milk producer produces between 2,000,001 and 2,500,000 pounds of pooled and non-pooled milk combined for the year in which he is applying for a tax credit. He would be eligible under the statute for a maximum tax credit of \$20,000, which, prorated over four quarters, would be \$5,000 per quarter. If the aggregate of the tax credits that all participating certified milk producers would be entitled to for that year is equal to or less than the statutory cap of \$2,500,000 and each quarter of the year is an eligible quarter then the certified milk producer in this example would receive a \$20,000 tax credit. If there are only two eligible quarters in the year then the maximum tax credit he would receive would be \$10,000, (\$5,000 per quarter X 2).

If, however, the aggregate of the tax credits that all participating certified milk producers would be entitled to exceeds the statutory cap of \$2,500,000.00 then all individual tax credits would have to be adjusted by a percent or ratio such that the aggregate cap of dairy tax credits for the taxable year would not exceed \$2,500,000. Suppose the aggregate tax credit in this example equaled \$3,100,000. Then the whole number percentage or ratio adjustment to individual tax credits necessary to maintain the aggregate tax credit for the year at or under \$2,500,000 would be 80%. The participating certified milk producer in this example would be eligible for a maximum credit of \$16,000, or \$4,000.00 per quarter, (80% of the maximum tax credit of \$20,000) if each quarter of the year is an eligible quarter. However, if there were only two eligible quarters in the year and the aggregate of the tax credits that all participating certified milk producers would be entitled to receive would, by virtue of that fact, be reduced to \$2,500,000 or less then the certified milk producer in this example would be eligible to receive the non-prorated maximum tax credit for each quarter. In this example that tax credit would be \$10,000, (\$5,000 per quarter X 2).

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2(A) and R.S. 47:6032(B).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner LR 34:

§515. Payment of Tax Credit

A. The tax credit shall be paid by the Department of Revenue to a certified milk producer based on the name and tax identification number listed on the chart that LDAF provides to the Department of Revenue.

B. LDAF shall determine the name and tax identification number of the certified milk producer based on the name and tax identification number listed on the information release form.

C. If two or more milk producers combined their milk under one certified milk producer's permit then the division of the tax credit among such milk producers shall be the responsibility of those milk producers and not the responsibility of either LDAF or the Department of Revenue.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2(A) and R.S. 47:6032(B).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner LR 34:

§517. Certification of Non-Pooled Milk

A. LDAF may certify non-pooled milk for inclusion in determining the amount of tax credit due to a certified milk producer if a non-pooled milk form or list is submitted by the certified milk producer or on his behalf by a milk handler not later than January 31 of the year immediately following the year for which the credit is applied for.

B. The milk producer or milk handler shall provide LDAF with documentation sufficient to show that the non-pooled milk was commercially produced in Louisiana and the reason why the milk is non-pooled milk.

C. LDAF may investigate the circumstances and require the milk producer or milk handler to provide additional information in determining whether the non-pooled milk is to be used for determining the milk producer's tax credit.

D. If LDAF determines that the non-pooled milk is to be used for determining the certified milk producer's tax credit then LDAF shall notify the milk producer of that determination and provide the information to the person or entity making the tax credit calculations.

E. If LDAF determines that the non-pooled milk is not to be used for determining the milk producer's tax credit then LDAF shall notify the milk producer of that determination on or before February 28 of the year immediately following the year for which the credit is applied for.

F. Any milk producer who is aggrieved by a decision of LDAF regarding the eligibility of non-pooled milk may petition the commissioner for an administrative hearing to determine the validity of the decision by LDAF.

1. Any such petition must be filed within 30 days after the milk producer receives notice from LDAF of the decision the milk producer is appealing.

2. The administrative hearing shall be held within 30 days after receipt of the milk producer's petition. The administrative hearing shall be conducted in accordance with the provisions of the Administrative Procedure Act.

3. The commissioner may conduct the hearing or appoint a hearing officer to conduct the hearing and make a recommendation to the commissioner. In all cases the commissioner shall make the final administrative decision.

4. Any petition for judicial review of the commissioner's decision shall be filed in accordance with the Administrative Procedure Act and within the time limits set out in the APA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2(A) and R.S. 47:6032(B).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner LR 34:

§519. Notices

A. LDAF shall publish the announced production price and list of eligible quarters in the *Potpourri* Section of the *Louisiana Register* and disseminate this information to milk producers by means reasonably calculated to provide notice to the milk producers.

B. LDAF shall notify each participating certified milk producer of the amount of tax credit that the milk producer is entitled to at the time that the chart of tax credits is submitted to the Department of Revenue.

C. All announcements and notices relative to the tax credit that LDAF is required to provide by law or these regulations to milk producers shall be provided by means reasonably calculated to provide notice to the milk producers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2(A) and R.S. 47:6032(B).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner LR 34:

§521. Disputes Regarding Milk Producer Tax Credit Qualifications

A. All disputes regarding whether a milk producer is or is not a certified milk producer shall be decided by the Department of Health and Hospitals in accordance with the regulations and policies of that department.

B. All disputes regarding eligibility for a tax credit or the amount thereof due the milk producer under the provisions of R.S. 47:6032 shall be decided by the Department of Revenue in accordance with the regulations and policies of that department.

C. All disputes regarding certification of the amount of non-pooled milk produced during a calendar year shall be decided by the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2(A) and R.S. 47:6032(B).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner LR 34:

§523. Confidentiality of Records; Maintenance of Records

A. All information provided by a milk producer or milk handler to LDAF or to other state or federal agencies and any information received by LDAF from other state or federal agencies that is declared by the milk producer or milk handler to be proprietary or trade secret information, or which is considered to be confidential under the U.S. or Louisiana Constitutions or by Louisiana law shall be treated by LDAF as confidential information that is exempt from Louisiana's public records laws.

B. LDAF's records relative to the tax credit shall be maintained for a period of three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2(A) and R.S. 47:6032(B).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner LR 34:

Mike Strain, DVM
Commissioner

0804#014

**DECLARATION OF EMERGENCY
Student Financial Assistance Commission
Office of Student Financial Assistance**

Scholarship/Grant Programs
(LAC 28:IV.301, 507, and 1301)

The Louisiana Student Financial Assistance Commission (LASFAC) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend and re-promulgate the rules of the Scholarship/Grant programs [R.S. 17:3021-3025, R.S. 3041.10-3041.15, and R.S. 17:3042.1.1-3042.8, R.S. 17:3048.1, R.S. 56:797(D)(2)].

The Emergency Rule revises the definition of "tuition" to include fees charged for certain compressed programs approved by the Board of Regents, clarifies the deadline for submission of applications by students returning from out-of state colleges, provides deadlines for submission of documents supporting applications by students returning from out-of state colleges, and corrects a citation of legal authority for the Leveraging Educational Assistance Partnership.

This Emergency Rule is necessary to implement changes to the Scholarship/Grant programs to allow the Louisiana Office of Student Financial Assistance and state educational institutions to effectively administer these programs. A delay in promulgating rules would have an adverse impact on the financial welfare of the eligible students and the financial condition of their families. LASFAC has determined that this Emergency Rule is necessary in order to prevent imminent financial peril to the welfare of the affected students.

This Declaration of Emergency is effective March 25, 2008, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act. (SG0895E)

Title 28

EDUCATION

Part IV. Student Financial Assistance—Higher Education Scholarship and Grant Programs

Chapter 3. Definitions

§301. Definitions

A. Words and terms not otherwise defined in these rules shall have the meanings ascribed to such words and terms in this Section. 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.

Tuition—the fee charged each student by a post-secondary institution to cover the student's share of the cost of instruction, including all other mandatory enrollment fees

charged to all students except for the technology fee authorized by Act 1450 of the 1997 Regular Session of the Legislature:

- a. which were in effect as of January 1, 1998;
- b. any changes in the cost of instruction authorized by the legislature and implemented by the institution after that date; and
- c. for programs with alternative scheduling formats that are approved in writing by the Board of Regents after that date. Any payment for enrollment in one of these programs shall count towards the student's maximum eligibility for his award:
 - i. up to the equivalent of eight full time semesters of postsecondary education in full time semesters for the TOPS Opportunity, Performance and Honors Award; or
 - ii. up to the equivalent of two years of postsecondary education in full time semesters and summer sessions for the TOPS Tech Award.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458, 1460 (August 1999), LR 25:1794 (October 1999), LR 26:65 (January 2000), LR 26:688 (April 2000), LR 26:1262 (June 2000), LR 26:1601 (August 2000), LR 26:1993, 1999 (September 2000), LR 26:2268 (October 2000), LR 26:2752 (December 2000), LR 27:36 (January 2001), LR 27:284 (March 2001), LR 27:1219 (August 2001), LR 27:1840, 1875 (November 2001), LR 28:45 (January 2002), LR 28:446 (March 2002), LR 28:772 (April 2002), LR 28:2330, 2331 (November 2002), LR 29:555 (April 2003), LR 29:879 (June 2003), LR 30:1159 (June 2004), LR 30:2015 (September 2004), LR 31:36 (January 2005), LR 31:3112 (December 2005), LR 33:86 (January 2007), LR 33:439 (March 2007), LR 33:1339 (July 2007), LR 33:2612 (December 2007), LR 34:234 (February 2008), LR 34:

Chapter 5. Applications, Federal Grant Aid and ACT Test

§507. Final Deadline for Submitting Documentation of Eligibility

- A. - B.2. ...
- C. Returning Students
 - 1 - 2. ...
 - 3.a. Returning students, who enroll in an eligible college or university in academic year (college) 2005-2006 or academic year (college) 2006-2007, must submit an application to return from an out-of-state college no later than July 1 immediately following the academic year (college) the student enrolls as a full-time student in an eligible college or university and must submit any supporting documentation required by the application no later than April 15 following the July 1 deadline.
 - b. Returning students, who enroll in an eligible college or university in the fall semester of 2007 or later, must submit an application to return from an out-of-state college no later than July 1 immediately following the academic year (college) the student enrolls as a full-time student in an eligible college or university and must submit any supporting documentation required by the application no later than January 15 following the July 1 deadline.

c. Examples

- i. A returning student who enrolled in an eligible college or university in the fall semester of 2005 must submit the application to return from an out-of-state college no later than July 1, 2006, and any required supporting documentation such as college transcripts no later than April 15, 2007.
- ii. A returning student who enrolled in an eligible college or university in the spring semester of 2007 must submit the application to return from an out-of-state college no later than July 1, 2007, and any required supporting documentation such as college transcripts no later than April 15, 2008.
- iii. A returning student who enrolled in an eligible college or university in the fall semester of 2007 must submit the application to return from an out-of-state college no later than July 1, 2008, and any required supporting documentation such as college transcripts no later than January 15, 2009.
- iv. A returning student who enrolled in an eligible college or university in the spring semester of 2008 must submit the application to return from an out-of-state college no later than July 1, 2008, and any required supporting documentation such as college transcripts no later than January 15, 2009.
- v. A returning student who enrolls in an eligible college or university in the fall semester of 2009 must submit the application to return from an out-of-state college no later than July 1, 2010, and any required supporting documentation such as college transcripts no later than January 15, 2011.

4.a. Beginning with the 2007-2008 academic year (college), all documentation and certifications necessary to establish a returning student's initial eligibility including, but not limited to, high school and/or college transcripts and certifications, copies of student aid reports, ACT and/or SAT scores, residency affidavits, proof of citizenship or permanent residency status and other documents that may be utilized in determining eligibility, must be received by LASFAC no later than January 15 immediately following the deadline for receipt of the student's FAFSA or on-line application.

b. Examples

- i. If a returning student enrolls full time in an eligible Louisiana college or university for the fall semester of 2007, his deadline to file the FAFSA or on-line application is July 1, 2008. If his initial FAFSA or on-line application is received no later than July 1, 2008, and if all the necessary supporting documentation relevant to establishing eligibility is in LASFAC's possession by January 15, 2009, the student will receive his TOPS award (reduced by the number of semesters/terms he enrolled out-of-state) retroactively beginning the fall semester of 2007.
- ii. If a returning student enrolls full time in an eligible Louisiana college or university for the spring semester of 2008, his deadline to file the FAFSA or on-line application is July 1, 2008. If his initial FAFSA or on-line application is received no later than July 1, 2008, and if all the necessary supporting documentation relevant to establishing eligibility is in LASFAC's possession by January 15, 2009, the student will receive his TOPS award

(reduced by the number of semesters/terms he enrolled out-of-state) retroactively beginning the spring semester of 2008.

iii. If a returning student enrolls full time in an eligible Louisiana college or university for the spring semester of 2008, his deadline to file the FAFSA or on-line application is July 1, 2008. If his initial FAFSA or on-line application is received after July 1, 2008, but no more than 120 days later, and if all the necessary supporting documentation relevant to establishing eligibility is in LASFAC's possession by January 15, 2009, the student will receive his TOPS award (reduced by the number of semesters/terms he enrolled out-of-state and further reduced by one additional semester if 1 to 60 days late or by two additional semesters if 61 to 120 days late) retroactively beginning the spring semester of 2008.

D.1. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:635 (April 1998), amended LR 24:1901 (October 1998), repromulgated LR 27:1847 (November 2001), amended LR 28:447 (March 2002), LR 30:1161 (June 2004), LR 30:1471 (July 2004), LR 30:2019 (September 2004), LR 32:2238 (December 2006), LR 33:2357 (November 2007), LR 34:

Chapter 13. Leveraging Educational Assistance Partnership (LEAP)

§1301. General Provisions

A. - A.2. ...

a. R.S. 17: 3031

A.2.b -F. ...

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 22:338 (May 1996), repromulgated LR 24:641 (April 1998), amended LR 24:1910 (October 1998), LR 25:1458 (August 1999), repromulgated LR 27:1860 (November 2001), amended LR 28:2332 (November 2002), LR 32:2239 (December 2006), LR 33:440 (March 2007), LR 34:240 (February 2008), LR 34:

George Badge Eldredge
General Counsel

0804#019

DECLARATION OF EMERGENCY

Tuition Trust Authority Office of Student Financial Assistance

START Savings Program
(LAC 28:VI.107, 307 and 315)

The Louisiana Tuition Trust Authority (LATTA) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend rules of the Student Tuition Assistance and Revenue Trust (START Saving) Program (R.S. 17:3091 et seq.).

As required by R.S. 17:3093(D)(1)(f), this rulemaking provides the determination of the interest rates paid and approved by the State Treasurer for deposits in START accounts invested in fixed earnings and for the Savings Enhancements Fund for the calendar year ending December 31, 2007.

This rulemaking redesignates the maximum of deposits in an account for which Earnings Enhancements will be paid from "fully funded account" to earnings enhancement cap.

This rulemaking redesignates references to the "earnings enhancements fund" as the "saving enhancement fund."

The Emergency Rule is necessary to allow the Louisiana Office of Student Financial Assistance and educational institutions to effectively administer these programs. A delay in promulgating rules would have an adverse impact on the financial welfare of the eligible students and the financial condition of their families. LATTA has determined that this Emergency Rule is necessary in order to prevent imminent financial peril to the welfare of the affected students.

This Declaration of Emergency is effective on March 25, 2008, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act. (ST0894E)

Title 28

EDUCATION

Part VI. Student Financial Assistance—Higher Education Savings

Chapter 1. General Provisions

Subchapter A. Tuition Trust Authority

§107. Applicable Definitions

A. Words and terms not otherwise defined in these rules shall have the meanings ascribed to such words and terms in this Section. 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.

* * *

Earnings Enhancement Cap—the maximum of deposits in an account for which Earnings Enhancements will be paid. The Earnings Enhancement Cap is reached when an account has a current value that is equal to or exceeds five times the annual qualified higher education expenses at the highest cost Louisiana public college or university, projected to the scheduled date of first enrollment. The projected qualified higher education expenses at each eligible educational institution shall be updated by the administering agency. On the date of the beneficiary's first enrollment in an eligible educational institution, the Earnings Enhancement Cap will be fixed at five times the annual qualified higher education expenses at the highest cost Louisiana public college or university, for the academic year of enrollment or the projected amount, whichever is greater.

* * *

Scheduled Date of First-Enrollment, (for a dependent beneficiary)—the month and year in which the beneficiary turns 18 years of age. For an independent student over the age of 18, the scheduled date of first-enrollment is the date the account is opened. This date is used to determine eligibility for EEs. See the term *earnings enhancement cap*.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:712 (June 1997), amended LR 24:1268 (July 1998), LR 25:1794 (October 1999), LR 26:2260 (October 2000), LR 27:37 (January 2001), LR 27:1222 (August 2001), LR 27:1876 (November 2001), LR 28:450 (March 2002), LR 28:777 (April 2002), LR 28:2334 (November 2002), LR 29:556 (April 2003), LR 30:786 (April 2004), LR 30:1169 (June 2004), LR 30:2302 (October 2004), LR 31:639

(March 2005), LR 32:1433 (August 2006), LR 32:2240 (December 2006), LR 33:443 (March 2007), LR 34:

Chapter 3. Education Savings Account

§307. Allocation of Earnings Enhancements

A. - F. ...

G. Restrictions on allocation of earnings enhancements to education savings accounts. The allocation of earnings enhancements is limited to education savings accounts which:

1. have not reached the earnings enhancement cap (see §107); and

G.2 - J.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:715 (June 1997), amended LR 24:1271 (July 1998), LR 25:1794 (October 1999), LR 26:1263 (June 2000), LR 26:2263 (October 2000), LR 27:37 (January 2001), LR 27:1222 (August 2001), LR 27:1880 (November 2001), LR 28:779 (April 2002), LR 30:788 (April 2004), LR 30:2302 (October 2004), LR 34:

§315. Miscellaneous Provisions

A. - B.5. ...

6. For the year ending December 31, 2001, the Savings Enhancement Fund earned an interest rate of 6.38 percent.

7. For the year ending December 31, 2002, the Louisiana Education Tuition and Savings Fund earned an interest rate of 5.82 percent.

8. For the year ending December 31, 2002, the Savings Enhancement Fund earned an interest rate of 5.91 percent.

9. For the year ending December 31, 2003, the Louisiana Education Tuition and Savings Fund earned an interest rate of 5.33 percent.

10. For the year ending December 31, 2003, the Savings Enhancement Fund earned an interest rate of 5.17 percent.

11. For the year ending December 31, 2004, the Louisiana Education Tuition and Savings Fund earned an interest rate of 4.72 percent.

12. For the year ending December 31, 2004, the Savings Enhancement Fund earned an interest rate of 5.12 percent.

13. For the year ending December 31, 2005, the Louisiana Education Tuition and Savings Fund earned an interest rate of 3.64 percent.

14. For the year ending December 31, 2005, the Savings Enhancement Fund earned an interest rate of 4.92 percent.

15. For the year ending December 31, 2006, the Louisiana Education Tuition and Savings Fund earned an interest rate of 5.11 percent.

16. For the year ending December 31, 2006, the Savings Enhancement Fund earned an interest rate of 4.67 percent.

17. For the year ending December 31, 2007, the Louisiana Education Tuition and Savings Fund earned an interest rate of 5.28 percent.

18. For the year ending December 31, 2007, the Savings Enhancement Fund earned an interest rate of 5.25 percent.

C. - P.1. ...

2. If the change in school results in a change in the account's earnings enhancement cap or maximum allowable account balance, the account owner will be notified.

Q. - S.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:718 (June 1997), amended LR 24:1274 (July 1998), LR 26:1263 (June 2000), repromulgated LR 26:2267 (October 2000), amended LR 27:1221 (August 2001), LR 27:1884 (November 2001), LR 28:1761 (August 2002), LR 28:2335 (November 2002), LR 29:2038 (October 2003), repromulgated LR 29:2374 (November 2003), amended LR 30:791 (April 2004), LR 30:1472 (July 2004), LR 31:2216 (September 2005), LR 32:1434 (August 2006), LR 32:2240 (December 2006), LR 33:2359 (November 2007), LR 34:

George Badge Eldredge
General Counsel

0804#018

DECLARATION OF EMERGENCY

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

Disproportionate Share Hospital Payment Methodologies
Mental Health Emergency Room Extensions
(LAC 50:V.2711)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:V.2711 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated an Emergency Rule to repeal and replace all Rules governing disproportionate share hospital (DSH) payment methodologies (*Louisiana Register*, Volume 31, Number 6). In compliance with Act 182 and Act 323 of the 2005 Regular Session of the Louisiana Legislature, the June 26, 2005 Emergency Rule was amended to establish provisions for provider fees levied on hospitals as a result of the Healthcare Affordability Act (*Louisiana Register*, Volume 31, Number 7) and to revise the definition of a small rural hospital (*Louisiana Register*, Volume 31, Number 9). The June 26, 2005 Emergency Rule was subsequently amended to incorporate the provisions of the July 1, 2005 and September 1, 2005 Emergency Rules (*Louisiana Register*, Volume 31, Number 10).

The October 25, 2005 Emergency Rule was amended to: 1) change the provisions governing DSH payments to other uninsured hospitals; 2) establish provisions governing payments to private community hospitals for services rendered to displaced, uninsured citizens from mandatory evacuation parishes affected by Hurricanes Katrina and Rita; 3) change the provisions governing DSH payments to high uninsured hospitals and to establish provisions governing

payments to public community hospitals (*Louisiana Register*, Volume 32, Number 7); and 4) revise the provisions governing disproportionate share hospital payments to non-rural community hospitals as a result of the allocation of additional funds by the legislature during the 2006 Regular Session (*Louisiana Register*, Volume 32, Number 9). The department subsequently amended the October 25, 2005 Emergency Rule to incorporate the provisions of the June 28, 2006 and September 15, 2006 Emergency Rules (*Louisiana Register*, Volume 32, Number 10) and to revise the definition of a small rural hospital (*Louisiana Register*, Volume 33, Number 1). The department amended the October 23, 2006 Emergency Rule to incorporate the provisions of the December 18, 2006 Emergency Rule (*Louisiana Register*, Volume 33, Number 2). In compliance with the directives of Act 6 and Act 18 of the 2007 Regular Session of the Louisiana Legislature, the department amended the February 21, 2007 Emergency Rule to: 1) revise the DSH qualifications and reimbursement methodologies for the state fiscal year 2007 payment to non-rural community hospitals (*Louisiana Register*, Volume 33, Number 7); 2) repeal the provisions of the June 27, 2007 Emergency Rule governing DSH payments to public and private community hospitals; 3) repeal and replace the provisions governing non-rural community hospitals (*Louisiana Register*, Volume 33, Number 10); and 4) adopt provisions for the reimbursement of uncompensated care costs for psychiatric services provided by non-state acute care hospitals that expand their distinct part psychiatric units and enter into an agreement with OMH (*Louisiana Register*, Volume 34, Number 1). The department subsequently amended the January 1, 2008 Emergency Rule to establish provisions for DSH payments to non-state acute care hospitals that enroll a new distinct part psychiatric unit and enter into an agreement with OMH (*Louisiana Register*, Volume 34, Number 3). The department also repromulgated all of the provisions governing DSH payment methodologies in LAC 50:V.Chapters 25 and 27 (*Louisiana Register*, Volume 34, Number 1). The department now proposes to amend the February 18, 2008 Emergency Rule to adopt provisions for the reimbursement of uncompensated care costs for psychiatric services provided by non-state acute care hospitals that establish a Mental Health Emergency Room Extension (MHERE) and enter into an agreement with the Office of Mental Health. It is estimated that the implementation of this Emergency Rule will increase expenditures in the Medicaid Program by \$3,500,000 for state fiscal year 2007-08. This action is being taken to avoid imminent peril to the health and welfare of Louisiana citizens who are in critical need of emergency psychiatric services.

Effective April 7, 2008, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions governing disproportionate share hospital payments to allow payments to non-state

acute care hospitals that establish a Mental Health Emergency Room Extension.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Medical Assistance Program—Hospital Services

Subpart 3. Disproportionate Share Hospital Payments

Chapter 27. Qualifying Hospitals

§2711. Mental Health Emergency Room Extensions

A. Effective for dates of service on or after April 7, 2008, Medicaid-enrolled non-state acute care hospitals that establish a Mental Health Emergency Room Extension (MHERE), and sign an addendum to the Provider Enrollment form (PE-50) by June 1, 2008 with the Department of Health and Hospitals, Office of Mental Health, shall be reimbursed for their net uncompensated care costs for psychiatric services rendered to patients.

1. The net uncompensated care cost is the Medicaid shortfall plus the cost of treating the uninsured.

B. Qualifying non-state acute care hospitals must:

1. be located in a region of the state that does not currently have an MHERE; and

2. not receive funding for their MHERE from another source.

C. The amount appropriated for this pool in SFY 2008 is \$3,500,000. If the net uncompensated care costs of all hospitals qualifying for this payment exceeds \$3,500,000, payment will be each qualifying hospital's pro rata share of the pool calculated by dividing its net uncompensated care costs by the total of the net uncompensated care costs for all hospitals qualifying for this payment multiplied by \$3,500,000.

D. Qualifying hospitals must submit costs and patient data in a format specified by the department.

E. Payments shall be made on a quarterly basis.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

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

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Alan Levine
Secretary

0804#064

DECLARATION OF EMERGENCY

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

Inpatient Hospital Services—Non-Rural, Non-State
Hospitals—Children's Specialty Hospitals Psychiatric Units
(LAC 50:V.911)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:V.911 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing provides reimbursement to children's specialty hospitals for inpatient psychiatric services provided to children who require emergency admissions. The bureau adopted by Emergency Rule provisions to allow for the reimbursement of inpatient psychiatric services provided to children who require non-emergency admissions to the psychiatric units of children's specialty hospitals (*Louisiana Register*, Volume 33, Number 9). This Emergency Rule is being promulgated to continue the provisions of the September 6, 2007 Emergency Rule.

This action is being taken to avoid imminent threat to the health and welfare of children who are in need of inpatient psychiatric services.

Effective for dates of service on or after May 5, 2008, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following provisions governing inpatient psychiatric services provided to children in children's specialty hospitals.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 1. Inpatient Hospitals

Chapter 9. Non-Rural Private Hospitals

Subchapter A. General Provisions

§911. Children's Specialty Hospitals Psychiatric Units

A. A psychiatric sub-provider unit in a Medicare Prospective Payment System (PPS) exempt children's specialty hospital may enroll in the Medicaid Program. The hospital must submit an attestation to the department that the unit meets the PPS exempt criteria outlined in 42 CFR 412.25 [except 412.25 (a)(1)(ii)]. Enrollment of the new unit will be effective upon verification of the hospital's attestation by the department.

B. Changes in the number of beds in existing units may only be made at the start of the hospital's cost reporting period. The hospital must notify the department of changes in bed size at least 90 days prior to the end of the hospital's cost reporting period. Qualifying Medicaid services provided in these approved units shall be subjected to the existing pre-admission certification requirements for children and adolescents in distinct part psychiatric/substance abuse units in acute care general hospitals.

C. Reimbursement for services will be the inpatient psychiatric prospective per diem rate.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:

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

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Alan Levine
Secretary

0804#066

DECLARATION OF EMERGENCY

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

Inpatient Hospital Services—Non-Rural, Non-State
Hospitals—Distinct Part Psychiatric Unit Expansions
(LAC 50:V.915)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:V.915 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions governing Medicaid reimbursement of inpatient psychiatric services provided by distinct part psychiatric units in acute care general hospitals (*Louisiana Register*, Volume 20, Number 1).

Act 18 of the 2007 Regular Session of the Louisiana Legislature authorized expenditures to the Medical Vendor Program for non-state acute care hospitals that expand their distinct part psychiatric unit beds and enter into an agreement with the Office of Mental Health (OMH) to provide inpatient psychiatric services. In compliance with Act 18, the department now proposes to amend the January 20, 1994 Rule governing inpatient psychiatric services to allow acute care hospitals that enter into an agreement with OMH to expand their distinct part psychiatric unit beds and receive Medicaid reimbursement for the patients who occupy the additional beds. It is estimated that the implementation of this proposed Rule will increase expenditures in the Medicaid Program by approximately \$3,000,000 for state fiscal year 2007-08. This action is being taken to avoid imminent peril to the health and welfare of

Louisiana citizens who are in critical need of inpatient psychiatric services.

Effective May 1, 2008, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions governing inpatient psychiatric services to allow non-state acute care hospitals to expand their distinct part psychiatric units.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Medical Assistance Program—Hospital Services

Subpart 1. Inpatient Hospitals

Chapter 9. Non-Rural, Non-State Hospitals

§915. Distinct Part Psychiatric Units

A. Changes in the Size of Distinct Part Psychiatric Units. For the purposes of Medicaid reimbursement, the number of beds and square footage of each distinct part psychiatric unit will remain the same throughout the cost reporting period. Any changes in the number of beds or square footage considered to be a part of a distinct part psychiatric unit may be made only at the start of a cost reporting period. Verification of these changes will be completed during the Medicaid agency's on-site survey at least 60 days prior, but no more than 90 days prior, to the end of the hospital's current cost reporting period with other information necessary for determining recognition as a distinct part psychiatric unit.

1. Exception. Effective for dates of service on or after January 1, 2008, a Medicaid enrolled non-state acute care hospital that signs an addendum to the Provider Enrollment form (PE-50) by March 1, 2008 with the Department of Health and Hospitals, Office of Mental Health may make a one-time increase in its number of beds with a resulting increase in the square footage of its current distinct part psychiatric unit or a one-time opening of a new distinct part psychiatric unit.

a. This increase or opening of a new unit will not be recognized, for Medicare purposes, until the beginning of the next cost reporting period. At the next cost reporting period, the hospital must meet the Medicare prospective payment system (PPS) exemption criteria and enroll as a Medicare PPS excluded distinct part psychiatric unit.

b. At the time of any expansion or opening of a new distinct part psychiatric unit, the provider must provide a written attestation that they meet all Medicare PPS rate exemption criteria.

B. Changes in the Status of Hospital Units. The status of each hospital unit is determined at the beginning of each cost reporting period and is effective for the entire cost reporting period. Any changes in the status of a unit are made only at the start of a cost reporting period.

1. Exception. In accordance with §915.A.-A.1a., a facility may take advantage of a one-time increase in its number of beds. If a facility does utilize the one-time increase provisions, the changes shall be effective for the remainder of the cost reporting period in which the one-time increase provisions are utilized. Any further changes can only be made at the start of the next cost reporting period.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 20:49 (January 1994), amended LR 34:

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

Interested persons may submit written comments to Jerry Phillips at Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Alan Levine
Secretary

0804#067

DECLARATION OF EMERGENCY

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

Inpatient Hospital Services—Non-Rural,
Non-State Hospitals—Reimbursement Rate Increase
(LAC 50:V.953-959)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:V.953-959 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule in June of 1994 which established the prospective reimbursement methodology for inpatient services provided in private (non-state) acute care general hospitals (*Louisiana Register*, Volume 20, Number 6), free-standing psychiatric hospitals and distinct part psychiatric units (*Louisiana Register*, Volume 19, Number 6). In compliance with the directives of Act 17 of the 2006 Regular Session of the Louisiana Legislature, the bureau amended the reimbursement methodology for inpatient hospital services to increase the Medicaid reimbursement rates paid to private hospitals and free-standing and distinct part psychiatric units (*Louisiana Register*, Volume 33, Number 2).

Act 18 of the 2007 Regular Session of the Louisiana Legislature authorized expenditures to the Medical Vendor Program to increase the Medicaid reimbursement rates paid to private providers for inpatient and outpatient hospital services. In compliance with the directives of Act 18, the department amended by Emergency Rule the reimbursement methodology for non-rural private inpatient hospital services to increase the Medicaid reimbursement rates paid for inpatient hospital services, including non-rural private (non-state) acute care hospitals, long term hospitals, hospital intensive neurological rehabilitation units and free-standing psychiatric hospitals and distinct part psychiatric units (*Louisiana Register*, Volume 33, Number 9). This Emergency Rule is being promulgated to continue the provisions of the September 1, 2007 Emergency Rule.

This Emergency Rule is being promulgated to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation in the Hospital Services Program and recipient access to providers of these medically necessary services.

Effective for dates of service on or after April 30, 2007, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions governing reimbursement rates paid for inpatient hospital services.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 1. Inpatient Hospitals

Chapter 9. Non-Rural, Non-State Hospitals

Subchapter B. Reimbursement Methodology

§953. Acute Care Hospitals

A. For dates of service on or after September 1, 2007, the prospective per diem rate paid to non-rural private (non-state) acute care hospitals for inpatient services shall be increased by 4.75 percent of the rate on file for August 31, 2007.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§955. Long Term Hospitals

A. For dates of service on or after September 1, 2007, the prospective per diem rate paid to long term hospitals for inpatient services shall be increased by 4.75 percent of the rate on file for August 31, 2007.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§957. Hospital Intensive Neurological Rehabilitation Units

A. For dates of service on or after September 1, 2007, the prospective per diem rate paid to hospital intensive neurological rehabilitation care units shall be increased by 4.75 percent of the rate on file for August 31, 2007.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§959. Inpatient Psychiatric Hospital Services

A. For dates of service on or after September 1, 2007, the prospective per diem rate paid to private free-standing psychiatric hospitals and distinct part psychiatric units shall be increased by 4.75 percent of the rate on file for August 31, 2007.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

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

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Alan Levine
Secretary

0804#062

DECLARATION OF EMERGENCY

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

Medicaid Eligibility—Spousal Impoverishment
Provisions and Nursing Facility Private-Pay Rate
(LAC 50:III.16101 and 16103)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:III.16101 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions governing spousal impoverishment criteria in the Medicaid Program for institutionalized individuals to allocate resources to a legal spouse and dependents living in the community (*Louisiana Register*, Volume 16, Number 3). The department amended the March 20, 1990 Rule by promulgating the Medicaid Eligibility Manual in its entirety by reference in May of 1996 (*Louisiana Register*, Volume 23, Number 5). Section I of the *Medicaid Eligibility Manual* addresses the eligibility factors considered in the determination of eligibility, including spousal impoverishment provisions.

The Deficit Reduction Act (DRA) Of 2005 amended §§1917 and 1924 of the Social Security Act concerning the treatment of assets, asset transfers and the treatment of income and resources for individuals and their spouses who apply for or receive long-term care services covered under the Medicaid Program. In compliance with the DRA provisions, the Department promulgated an Emergency Rule to repeal and replace the March 20, 1990 Rule and the provisions of Section I of the *Medicaid Eligibility Manual* governing spousal impoverishment which was promulgated in the May 20, 1996 Rule (*Louisiana Register*, Volume 34, Number 1). The January 15, 2008 Emergency Rule also adopted provisions establishing the statewide average, monthly nursing facility private-pay rate used in the calculation of periods of ineligibility for long-term care services. This Emergency Rule is being promulgated to continue the provisions of the January 15, 2008 Emergency Rule. This action is being taken to avoid possible federal sanctions.

Effective May 15, 2008, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repeals and replaces the provisions governing spousal impoverishment and establishes the monthly nursing facility private-pay rate.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part III. Eligibility

Subpart 9. Long-Term Care Eligibility

Chapter 161. General Provisions

§16101. Spousal Impoverishment

A. Spousal impoverishment provisions assure that the needs of an institutionalized individual's legal spouse and/or dependents that reside in the community continue to be met.

B. Spousal impoverishment resource provisions allow certain long term care applicants/recipients residing in a medical institution for a continuous period of institutionalization or home and community-based services waiver applicants/recipients to allocate resources to a legal spouse (referred to as the community spouse) who lives in a non-institutionalized living arrangement for the community spouse's own use and maintenance.

1. Exception. The spousal impoverishment provisions do not apply to individuals residing in a group home.

C. The income first rule shall apply to spousal impoverishment. Under these provisions, all of the income of the institutionalized spouse that can be made available to the community spouse will be made available to bring the spouse up to the Minimum Monthly Needs Allowance.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§16103. Nursing Facility Private-Pay Cost

A. The department uses a statewide average, monthly private-pay nursing facility cost amount to calculate the periods of ineligibility for long-term care services when uncompensated transfers of assets occur. The average, monthly private-pay nursing facility cost amount shall be determined by the bureau.

1. The amount will be reviewed annually to ensure that it remains aligned with private-pay costs.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Interested persons may submit written comments to Jerry Phillips at Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Alan Levine
Secretary

0804#068

DECLARATION OF EMERGENCY

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

Medicaid Eligibility SSI-Related Resources (LAC 50:III.10717)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:III.10717 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule promulgating the *Medicaid Eligibility Manual* in its entirety by reference in May of 1996 (*Louisiana Register*, Volume 23, Number 5). Section I of the *Medicaid Eligibility Manual* addresses the eligibility factors considered in the determination of eligibility, including Supplemental Security Income (SSI) related resources.

The Omnibus Budget Reconciliation Act (OBRA) of 1993 established provisions governing the transfer of assets, trusts and annuities considered in the determination of Medicaid eligibility. In compliance with OBRA of 1993, the department amended the provisions of Section I of the *Medicaid Eligibility Manual* to clarify the treatment of annuities (*Louisiana Register*, Volume 29, Number 12).

The Deficit Reduction Act (DRA) of 2005 amended §§1917 and 1924 of the Social Security Act concerning the treatment of assets, asset transfers and the treatment of income and resources for individuals and their spouses who apply for or receive long-term care services covered under the Medicaid Program. In compliance with the DRA provisions, the department promulgated an Emergency Rule to repeal and replace the provisions of Section I of the *Medicaid Eligibility Manual* governing the treatment of certain SSI-Related resources which were promulgated in the May 20, 1996 Rule, and to repeal and replace the December 20, 2003, August 20, 2005, and the July 20, 2006 Rules (*Louisiana Register*, Volume 34, Number 1). In addition, the January 15, 2008 Emergency Rule adopted provisions governing the treatment of continuing care retirement communities, substantial home equity and life estates. The department now proposes to amend the January 15, 2008 Emergency Rule to further clarify the provisions governing the treatment of life estates. This action is being taken to avoid possible federal sanctions.

Effective April 20, 2008, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions governing SSI-Related Resources to further clarify the provisions governing the treatment of life estates.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE

Part III. Eligibility
Subpart 5. Financial Eligibility

Chapter 107. Resources

§10717. Types of SSI-Related Resources

A. The following SSI-related resources are considered in determining eligibility for Medicaid coverage.

1. Annuities

a. Any annuity purchases must adhere to the following requirements or the annuity will be considered an available countable resource.

i. The annuity must contain a statement that names the state of Louisiana as the remainder beneficiary in the first position for the total amount of Medicaid assistance paid on behalf of the annuitant unless there is a community spouse and/or a minor or disabled child.

ii. If there is a community spouse and/or a minor or disabled child, the state may be named in the next position after those individuals. If the state has been named after a community spouse and/or minor or disabled child and any of those individuals or their representatives dispose of any of the remainder of the annuity for less than fair market value, the state may then be named in the first position.

iii. If the state is not named as a remainder beneficiary in the correct position, the purchase of the annuity will be considered a transfer for less than fair market value. The full purchase value of the annuity will be considered the amount transferred.

b. In addition to purchases of annuities, certain related transactions which occur to annuities are subject to these provisions. If any action taken by the individual changes the course of payment to be made by the annuity, then the treatment of the income or principal of the annuity is subject to these provisions. This includes additions of principal, elective withdrawals, requests to change the distribution of the annuity, elections to annuitize the contract and similar actions taken by the individual.

i. Routine changes and automatic events that do not require any action or decision after the effective date of the enactment are not considered transactions that would subject the annuity to treatment under these provisions.

c. Refusal to disclose sufficient information related to any annuity will result in denial or termination of Medicaid based on the applicant's failure to cooperate. When an unreported annuity is discovered after eligibility has been established and after payment for long-term care services has been made, appropriate steps to terminate payment for services will be taken, including appropriate notice to the individual of the adverse action.

d. Annuities purchased by or on behalf of an annuitant who has applied for medical assistance will not be treated as a transfer of assets if the annuity meets any of the following conditions:

i. the annuity is considered to be:

- (a). an individual retirement annuity; or
- (b). a deemed individual retirement account

(IRA) under a qualified employer plan; or

ii. the annuity is purchased with proceeds from one of the following:

- (a). a traditional IRA;

(b). certain accounts or trusts which are treated as IRAs;

(c). a simplified retirement account; or

(d). a simplified employee pension; or

iii. the annuity:

(a). is irrevocable and non-assignable;

(b). is actuarially sound; and

(c). provides payments in approximately equal amounts with no deferred or balloon payments.

e. Applicants or their authorized representatives shall be responsible for providing documentation from the financial institution verifying qualifying IRS annuities. Absent such documentation, the purchase of the annuity will be considered a transfer for less than fair market value which is subject to penalty. The full purchase value of the annuity will be considered the amount transferred.

f. If an annuity or the income stream from an annuity is transferred, except to or for the spouse's sole benefit, to their child or a trust, the transfer may be subject to penalty.

2. Continuing Care Retirement Community Entrance Fees

a. Continuing care retirement communities (CCRC's) are entities which provide a range of living arrangements from independent living through skilled nursing care. An entrance contract for admission to a continuing care retirement center or life care community must take into account the required allocation of resources or income to the community spouse before determining the amount of resources that a resident must spend on his or her own care.

b. A CCRC entrance fee shall be treated as a resource for the purposes of determining Medicaid eligibility under the following conditions if the entrance fee:

i. can be used to pay for care under the terms of the entrance contract should other resources of the individual be insufficient;

NOTE: It is not necessary for CCRC's or life care communities to provide a full, lump-sum refund of the entrance fee to the resident. If portions of the fee can be refunded or applied to pay for care as required, this condition would be met.

ii. or a remaining portion is refundable when the individual dies or terminates the contract and leaves the CCRC or life care community; and

NOTE: It is not necessary for the resident to actually receive a refund of the entrance fee for deposit. This condition is met as long as the resident could receive a refund were the contract to be terminated, or if the resident dies.

iii. does not confer an ownership interest in the community.

3. Life Estates

a. The purchase of a life estate in another individual's home is considered a countable resource and subject to examination under transfer of asset provisions unless the purchaser resides in the home for a period of at least one year after the date of purchase.

b. The life estate value will be determined using the life estate tables published by the Social Security Administration for the SSI program.

c. For transfer of assets determinations, the amount of the transfer is the entire amount used to purchase the life estate.

i. The amount shall not be reduced or prorated to reflect an individual's residency for a period of time less than one year.

d. If payment for a life estate exceeds the fair market value (FMV) of the life estate, the difference between the amount paid and the FMV will be treated as a transfer of assets.

e. If an individual makes a gift or transfer of a life estate, the value of the life estate will be treated as a transfer of assets.

f. These provisions apply only to the purchase of life estates. They do not apply in situations where an individual transfers real property but retains the life estate and the value of the remainder interest (not the life estate) is used to determine whether a transfer has occurred and to calculate the period of ineligibility.

g. For the purposes of determining eligibility for Medicaid coverage, the terms "life estate" and "usufruct" have the same meaning.

4. Loans, Mortgages, Promissory Notes and Other Property Agreements

a. Countable assets include funds used to purchase a promissory note, or funds used to make a loan or mortgage. These resources are subject to transfer of assets provisions unless the repayment terms are actuarially sound.

b. Loans, mortgages, promissory notes, property agreements or property assignments are countable resources regardless of any non-assignability, non-negotiability or non-transferability provisions contained therein.

c. Instruments containing any of the following provisions are a countable resource and shall be evaluated as a transfer of assets:

i. repayment terms that exceed the holder's life expectancy;

ii. provisions for interest only payments or principal payments that are not to be made in equal amounts during the term of the loan;

iii. deferral or balloon payments; or

iv. cancellation or forgiveness clauses that cancel the balance upon some occurrence such as death of the lender.

d. If there is evidence that there is not a good faith agreement to repay the entire principal of a note, loan or mortgage, the instrument shall not be considered bona fide and shall be evaluated as a transfer of resources.

5. Substantial Home Equity

a. Substantial home equity above the state's established limit is a countable resource which causes ineligibility for long-term care services. If an individual's equity interest in their home exceeds \$500,000, that individual is not eligible for Medicaid payment of nursing facility services or other long-term care services.

b. Home equity limitations do not apply if the individual's spouse, the individual's child under the age of 21, or the individual's blind or disabled child is residing in the home.

i. A child is considered disabled if he or she meets the definition of disability as defined by Section 1614(a)(3) of the Social Security Act.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Alan Levine
Secretary

0804#065

DECLARATION OF EMERGENCY

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

Medicaid Eligibility—Transfers of Assets (LAC 50:III.Chapter 109)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:III.Chapter 109 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Human Resources, Office of Family Security, adopted provisions governing the transfer of resources for less than the fair market value (FMV) (*Louisiana Register, Volume 9, Number 6*). The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the July 1, 1983 Rule to comply with the provisions of §§3250-3255 of the State Medicaid Manual governing the transfer of assets (*Louisiana Register, Volume 16, Number 3*). In April 1994, the Department amended the March 20, 1990 Rule to extend the look-back period for potential transfers and to clarify the provisions governing transfer of assets. The Department subsequently adopted a Rule promulgating the *Medicaid Eligibility Manual* in its entirety by reference in May of 1996 (*Louisiana Register, Volume 23, Number 5*). Section I of the *Medicaid Eligibility Manual* addresses the eligibility factors considered in the determination of eligibility, including transfers of assets.

The Deficit Reduction Act (DRA) of 2005 amended §§1917 and 1924 of the Social Security Act concerning the treatment of assets, asset transfers and the treatment of income and resources for individuals and their spouses who apply for or receive long-term care services covered under the Medicaid Program. In compliance with the DRA provisions, the Department promulgated an Emergency Rule to amend the provisions governing the transfer of assets (*Louisiana Register, Volume 34, Number 1*). The Department now proposes to amend the January 15, 2008 Emergency Rule to further clarify the provisions governing undue

hardships. This action is being taken to avoid possible federal sanctions.

Effective April 20, 2008, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the January 15, 2008 Emergency Rule to further clarify the provisions governing undue hardships.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part III. Eligibility

Subpart 5. Financial Eligibility

Chapter 109. Transfers of Assets

§10905. Transfers

A. The Deficit Reduction Act of 2005 established new provisions governing the treatment of transfers of assets for individuals and their spouses who apply for or receive long-term care services.

B. The look-back period is lengthened to five years for potential transfers of assets.

C. For transfers for less than fair market value, the period of ineligibility for long-term care vendor payment is the latter of the first day of the month after which the asset was transferred or the date on which the individual is eligible for long term care Medicaid assistance (but for the penalty being applied).

1. The penalty is a period of ineligibility for receiving long-term care vendor payments as a result of a transfer of income or assets or both.

2. Periods of ineligibility cannot occur during any other period of ineligibility; they must be consecutive and not concurrent.

D. For transfers for less than fair market value, the penalty period for home and community-based services (HCBS) waiver recipients begins with the later of the month during which assets have been transferred or the date the individual is ineligible for Medicaid long-term care assistance and is receiving long-term care services (nursing facility and ICF/MR or HCBS services) that would be covered by Medicaid, except for imposition of the penalty.

E. Partial Month Transfers. The department shall impose penalties for transfers in a month that are less than the state's average monthly cost to a private patient of nursing facility services in the state.

F. Combining Multiple Transfers Made in More Than One Month. These provisions refer to more than one transfer during the look-back period where each transfer results in less than a full month of eligibility.

1. The department shall combine multiple transfers for less than fair market value in more than one month and impose a single period of ineligibility or apply multiple penalty periods.

a. If the department imposes a single period of ineligibility, all transfers will be added together and a single continuous period of eligibility will be imposed. Otherwise, a separate period of ineligibility shall be calculated for each month and the resulting periods of eligibility shall be imposed separately.

G. Undue Hardship. The department shall provide for an undue hardship waiver when application of the transfer of assets provision would deprive the individual of medical care such that the individual's health, life or other necessities of life would be endangered.

1. An undue hardship exception is when a penalty will not be imposed against the applicant/enrollee, either in whole or in part, after findings that an undue hardship exists.

a. Undue hardship provisions shall permit the facility in which the individual is residing to file an undue hardship waiver application on his behalf with the consent of the individual or the personal representative of the individual.

b. Bed hold payments shall not be made while an application for an undue hardship waiver is pending.

c. The community spouse is not protected by the hardship exception. The exception is for the applicant/enrollee not to be deprived.

2. Undue hardship does not exist:

a. when the application of the transfer of assets provisions merely causes the individual inconvenience or when such application might restrict his or her lifestyle but would not put him/her at risk of serious deprivation; and

b. when property is transferred to one or more of the following:

i. blood relatives to a third degree cousin;

ii. mother-in-law;

iii. father-in-law;

iv. brother-in-law; or

v. sister-in-law;

c. if the individual who transferred the assets or income, or on whose behalf the assets or income were transferred, has not exhausted all lawful means to recover the assets or income or the value of the transferred assets or income; or

d. if the applicant/enrollee's health or age indicated a need for long term care services was predictable at the time of the transfer.

3. The applicant/recipient shall be advised in writing of the decision made on the undue hardship exception request.

a. - b. Repealed.

4. Determining Undue Hardship. Once a period of ineligibility has been established because of a transfer of assets or income for less than fair market value, or the equity value in the home, an applicant/enrollee may apply for an undue hardship exception.

a. An undue hardship exception request must be made within seven days from the date of notification of the penalty. Documentation supporting the request for the exception of undue hardship must be provided. The department may extend the request periods if it determines that extenuating circumstances require additional time.

b. When undue hardship requests are made for the first time, individuals challenging the penalty must raise all claims and submit all evidence permitting consideration of undue hardship. The individual has to have taken action in law and equity to get the asset back before the department can consider undue hardship.

4.b.i. - v. Repealed.

c. Once the department determines that it has received complete documentation, it shall inform the individual within 10 business days of the undue hardship decision.

d. If no request for undue hardship is received within seven days after notification of a transfer penalty, or if the request is denied, the department shall issue an

eligibility determination specifying the applicable penalty period.

i. If the individual is a recipient, the notice shall include the termination date of Medicaid eligibility for long-term care services.

ii. The notice shall also include the right to request a fair hearing and continuing benefits.

5. If an undue hardship exception is denied, the applicant has the right to appeal the denial decision.

6. An undue hardship exception may be requested at any time during the penalty period if new circumstances leading to undue hardship arise during the duration of the penalty period. If granted, the undue hardship request shall be prospective from the date of the request.

7. The department shall have no obligation to pay for long-term care services during the penalty period unless it grants an undue hardship exception or the applicant/enrollee prevails in a fair hearing.

a. - d. Repealed.

8. The individual must provide to the department sufficient documentation to support, by a preponderance of the evidence, the claim that application of the penalty will result in an undue hardship to the applicant/enrollee (not the community spouse).

9. If undue hardship is determined to exist, the transferred assets or equity value in the home shall not be considered in the eligibility process.

10. If a request for an undue hardship exception is denied, the applicant/enrollee may request a fair hearing.

11. Terminating the Undue Hardship Exception. The department shall terminate the undue hardship exception, if not earlier, at the time an individual, the spouse of the individual, or anyone with authority on behalf of the individual, makes any uncompensated transfer of income or assets after the undue hardship exception is granted.

a. The department shall deny any further requests for an undue hardship exception due to either the disqualification based on the transfer upon which the initial undue hardship determination was based or a disqualification based on the transfer, which required termination of the undue hardship exception.

12. - 13.a. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Interested persons may submit written comments to Jerry Phillips at Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Alan Levine
Secretary

0804#063

DECLARATION OF EMERGENCY

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

Medical Transportation Program—Emergency and Non-Emergency Ambulance Services—Reimbursement Rate Increase (LAC 50:XXVII.Chapters 3-5)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:XXVII.Chapters 3-5 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing provides reimbursement for emergency and non-emergency ambulance services. Reimbursement for these services is the base rate established by the bureau minus the amount which any third party coverage would pay. As a result of the allocation of additional funds by the legislature during the 2002 and 2006 Regular Sessions, the bureau increased the reimbursement rate for certain designated procedure codes for non-emergency ambulance transportation services (*Louisiana Register*, Volume 28, Number 12) and increased the base rate and ground mileage reimbursement rate for emergency ambulance transportation services (*Louisiana Register*, Volume 33, Number 3).

Act 18 of the 2007 Regular Session of the Louisiana Legislature authorized expenditures to the Medical Vendor Program to increase the ground mileage rate and ancillary services rate for emergency and non-emergency ambulance transportation services. In compliance with the directives of Act 18, the department amended the reimbursement methodology for emergency and non-emergency ambulance transportation services to increase the ground mileage rate and the ancillary services rate (*Louisiana Register*, Volume 33, Number 8). This Emergency Rule is being promulgated to continue the provisions of the September 1, 2007 Emergency Rule. This action is being taken to promote the health and welfare of recipients and to maintain access to emergency ambulance transportation services by encouraging the continued participation of these providers in the Medicaid Program.

Effective April 30, 2008, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement rates for emergency and non-emergency ambulance transportation services.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part. XXVII. Medical Transportation Program

Chapter 3. Emergency Medical Transportation

Subchapter B. Ground Transportation

§325. Reimbursement

A. The Medicaid reimbursement for land-based ambulance services is the rate established in the State fee schedule (based on Medicare rates) for emergency ambulance transport, basic life support, advanced life support and mileage, oxygen, intravenous fluids, and disposable supplies administered during the emergency ambulance transport minus the amount paid by any liable third party coverage.

B. For dates of service on or after September 1, 2006, the base rate for emergency ambulance transportation services shall be increased by 5 percent of the rates in effect on August 31, 2006.

C. For dates of service on or after September 1, 2006, the ground mileage reimbursement rate for emergency ambulance transportation services shall be increased by 17 percent of the rates in effect on August 31, 2006.

D. For dates of service on or after September 1, 2007, the ground mileage reimbursement rate for emergency ambulance transportation services shall be increased by \$2.50 of the rate in effect on August 31, 2007.

E. For dates of service on or after September 1, 2007, the ancillary services rate for emergency ambulance transportation services shall be increased by 70 percent of the rate in effect on August 31, 2007.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:

Chapter 5. Non-Emergency Medical Transportation

Subchapter D. Reimbursement

§571. Non-Emergency Ambulance Transportation

A. Reimbursement for non-emergency ambulance transportation claims shall be allowed only when accompanied by the medical certification form justifying the need for ambulance services.

B. For dates of service on or after September 1, 2007, the ground mileage reimbursement rate for non-emergency ambulance transportation services shall be increased by \$2.50 of the rate in effect on August 31, 2007.

C. For dates of service on or after September 1, 2007, the ancillary services rate for non-emergency ambulance transportation services shall be increased by 70 percent of the rate in effect on August 31, 2007.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:

§573. Non-Emergency, Non-Ambulance Transportation

A. For dates of service on or after September 1, 2006, the reimbursement rate for non-emergency, non-ambulance medical transportation services shall be increased by 5 percent of the rates in effect on August 31, 2006.

B. For dates of service on or after December 1, 2006, the reimbursement rate for non-emergency, non-ambulance

medical transportation services shall be increased by an additional 9 percent of the rates in effect on November 30, 2006.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:

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

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Alan Levine
Secretary

0804#069

DECLARATION OF EMERGENCY

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

Professional Services Program—Physician Services
Reimbursement Methodology
(LAC 50:IX.15103)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:IX.15103 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reimburses professional services in accordance with an established fee schedule for Current Procedural Terminology (CPT) codes and Healthcare Common Procedure Coding System (HCPCS) codes. Act 18 of the 2007 Regular Session of the Louisiana Legislature authorized expenditures to the Medical Vendor Program to adjust the Medicaid reimbursement rates paid for physician services. In compliance with Act 18, the bureau promulgated an Emergency Rule to amend the provisions contained in the December 20, 2003 and April 20, 2005 Rules governing the reimbursement methodology for physician services. In addition, the bureau repealed the provisions contained in the following rules governing the reimbursement methodology for physician services: December 20, 2000; May 20, 2001; August 20, 2002; and February 20, 2007 (*Louisiana Register*, Volume 3, Number 10). The bureau promulgated an Emergency Rule to amend the October 15, 2007 Emergency Rule to adjust the reimbursement rates paid for selected physician services to the 2008 Louisiana Medicare

Region 99 rates (*Louisiana Register*, Volume 34, Number 1). This Emergency Rule is being promulgated to continue the provisions of the January 1, 2008 Emergency Rule.

This action is being taken to promote the health and welfare of Medicaid recipients and to maintain access to physician services by encouraging the continued participation of providers in the Medicaid Program.

Effective for dates of service on or after May 1, 2008, the Department of Health and Hospitals, Bureau of Health Services Financing amends the reimbursement rates paid to physicians for selected medical services provided to Medicaid recipients.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part IX. Professional Services Program

Subpart 15. Reimbursement

§15103. Physician Services

A. Effective for dates of service on or after October 15, 2007, the reimbursement for selected physician services shall be 90 percent of the 2007 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount, unless otherwise stipulated.

1. The reimbursement shall remain the same for those services that are currently being reimbursed at a rate that is between 90 percent and 120 percent of the 2007 Louisiana Medicare Region 99 allowable.

2. For those services that are currently reimbursed at a rate above 120 percent of the 2007 Louisiana Medicare Region 99 allowable, effective for dates of service on or after October 15, 2007, the reimbursement for these services shall be reduced to 120 percent of the 2007 Louisiana Medicare Region 99 allowable.

B. Effective for dates of service on or after January 1, 2008, the reimbursement for selected physician services shall be 90 percent of the 2008 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount, unless otherwise stipulated.

1. The reimbursement shall remain the same for those services that are currently being reimbursed at a rate that is between 90 percent and 120 percent of the 2008 Louisiana Medicare Region 99 allowable.

2. For those services that are currently reimbursed at a rate above 120 percent of the 2008 Louisiana Medicare Region 99 allowable, effective for dates of service on or after January 1, 2008, the reimbursement for these services shall be reduced to 120 percent of the 2008 Louisiana Medicare Region 99 allowable.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

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

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A

copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Alan Levine
Secretary

0804#070

DECLARATION OF EMERGENCY

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

Prosthetics and Orthotics
Reimbursement Rate Increase
(LAC 50:XVII.501,1505,1707,1907, and 10117)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 50:XVII.501 and repeals LAC 50:XVII.1505, 1707, 1907 and 10117 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repealed and repromulgated provisions governing prosthetic and orthotic devices in the Medical Assistance Program (*Louisiana Register*, Volume 31, Number 7). The bureau amended the July 2005 Rule to repeal the reimbursement methodology for specific prosthetic and orthotic items and to increase the reimbursement rate (*Louisiana Register*, Volume 33, Number 9). This Emergency Rule is being promulgated to continue the provisions of the September 6, 2007 Emergency Rule.

This action is being taken to promote the health and welfare of Medicaid recipients and to maintain access to orthotic and prosthetic devices by encouraging the continued participation of providers in the Medicaid Program.

Effective May 5, 2008, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the reimbursement methodology for prosthetics and orthotics.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XVII. Prosthetics and Orthotics

Subpart 1. General Provisions

Chapter 5. Reimbursement

§501. Reimbursement Methodology

A. Effective for dates of service on or after September 6, 2007, the reimbursement for prosthetic and orthotic devices is 90 percent of the 2007 Medicare Fee Schedule amount or billed charges, whichever is the lesser amount, unless otherwise stipulated. If an item is not available at 90 percent of the 2007 Medicare fee schedule amount, the flat fee that will be utilized is the lowest cost at which the item has been determined to be widely available by analyzing usual and customary fees charged in the community.

1. This rate does not apply to prosthetics and orthotics that are:

- a. already priced at a higher amount than 90 percent of the 2007 Medicare Fee Schedule; or
- b. not included on the 2007 Medicare Fee Schedule, such as customized items for which there is no established fee that must be individually priced.

B. Items not listed on the Medicare Fee Schedule will continue to be priced in accordance with current policy.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1597 (July 2005), amended LR 34:

Subpart 3. Prosthetic Devices

Chapter 15. Artificial Eyes, Scleral Shell, and Related Services

§1505. Reimbursement

A. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1598 (July 2005), repealed LR 34:

Chapter 17. Breast or Mammary Prostheses

§1707. Reimbursement

A. - B. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1598 (July 2005), repealed LR 34:

Chapter 19. Support and Surgical Stockings

§1907. Reimbursement

A. - B. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1598 (July 2005), repealed LR 34:

Subpart 5. Orthotic Devices

Chapter 101. General Provisions

§10117. Reimbursement

A. - B. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1599 (July 2005), repealed LR 34:

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

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Alan Levine
Secretary

0804#071

DECLARATION OF EMERGENCY

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

State Children's Health Insurance Program
Coverage of Prenatal Care Services
(LAC 50:III.20301-20305)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:III.20301 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XXI of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing implemented a Medicaid expansion program under the provisions of Title XXI of the Social Security Act called the Louisiana Children's Health Insurance Program (LaCHIP) (*Louisiana Register*, Volume 24, Number 10). LaCHIP provided health care coverage to uninsured children up to age 19 with family income below 133 percent of the federal poverty level (FPL). The October 20, 1998 Rule was subsequently amended to: 1) implement the second phase of LaCHIP which expanded coverage to uninsured children with family income up to 150 percent of the FPL (*Louisiana Register*, Volume 25, Number 9); and 2) implement the third phase which expanded coverage to uninsured children with family income up to 200 percent of the FPL (*Louisiana Register*, Volume 26, Number 12).

The bureau by Emergency Rule expanded coverage to children under Title XXI of the Social Security Act by implementing a stand-alone State Children's Health Insurance Program (SCHIP) to provide coverage of prenatal care services to low income, non-citizen women (*Louisiana Register*, Volume 33, Number 5). The department amended the provisions of the May 1, 2007 Emergency Rule to place these provisions in the appropriate place in the *Louisiana Administrative Code* (*Louisiana Register*, Volume 33, Number 12). This Emergency Rule is being promulgated to continue the provisions of the December 29, 2007 Emergency Rule. This action is being taken to promote the health and well-being of children by increasing access to prenatal care services in order to reduce the occurrence of premature deliveries and costly emergency care for drop-in deliveries.

Effective April 28, 2008, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts provisions to establish State Children's Health Insurance Program coverage of prenatal care services as an expansion of coverage for children under the provisions of Title XXI of the Social Security Act.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE

Part III. Eligibility

Subpart 11. State Children's Health Insurance Program

Chapter 203. Prenatal Care Services

§20301. General Provisions

A. Effective May 1, 2007, the Department of Health and Hospitals will provide State Children's Health Insurance Program (SCHIP) coverage of prenatal care services to low income, non-citizen women as an expansion of coverage for children under Title XXI of the Social Security Act. SCHIP coverage of prenatal care services will be an expansion of coverage for children, from conception to birth, with income from 0 percent through 200 percent of the federal poverty level (FPL).

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§20303. Eligibility Criteria

A. An applicant must be a Louisiana resident and cannot be eligible for Medicaid benefits under the provisions of Title XIX of the Social Security Act.

B. Applicants must be uninsured at the time of application.

1. Applicants are considered to be uninsured if they do not have creditable health insurance that provides coverage of prenatal care services.

C. Recipients must have family income at or below 200 percent of the FPL.

D. Recipients cannot be covered under a group health insurance plan or have creditable health insurance coverage and cannot have access to a state employee health benefits plan.

1. A state employee health benefits plan is a plan that is offered or organized by the state government, or on behalf of state employees, or other public agency for employees within the state.

E. Recipients shall be eligible to receive SCHIP coverage of prenatal care services from the month of conception or the first month of eligibility following conception, whichever is later, through the month of birth.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§20305. Services

A. Covered Services. Recipients shall receive coverage of pregnancy-related health care services and associated medically necessary services for conditions that, if not treated, would complicate the pregnancy. Pregnancy-related health care services which may be covered include:

1. inpatient and outpatient health care services;
2. physician services;
3. surgical services;
4. clinic and other ambulatory health care services;
5. prescription and over-the-counter medications;
6. laboratory and radiological services;
7. pre-natal care and pre-pregnancy family services and supplies;

8. inpatient and outpatient mental health services other than those services relative to substance abuse treatment;

9. durable medical equipment and other medically-related or remedial devices;

10. disposable medical supplies;

11. nursing care services;

12. extended dental services for pregnant women;

13. case management services;

14. physical therapy, occupational therapy and services for individuals with speech, hearing and language disorders;

15. medical transportation services; and

16. any other medically necessary medical, diagnostic, screening, preventive, restorative, remedial, therapeutic or rehabilitative services.

B. Service Limits. Sterilization procedures are not a covered service in this program. Other Medicaid-specific benefit limits, age limits and prior authorization requirements may be applicable to the services covered in this program.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Interested persons may submit written comments to Jerry Phillips, Department of Health and Hospitals, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Alan Levine
Secretary

0804#072

DECLARATION OF EMERGENCY

Office of the Governor
Division of Administration
Office of Facility Planning and Control

Design-Build Method of Procuring Design
and Construction Services
(LAC 34:III.161-199)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the provisions of RS 39:121, The Division of Administration, Facility Planning and Control hereby gives notice that it is adopting a new Emergency Rule LAC 34:III,Chapter 1, Subchapter C, Design-Build Method of Procuring Design and Construction Services. This Rule is required by Act 373, 2007 and provides rules for its use as authorized by the Act. This Emergency Rule will give Facility Planning and Control and certain parishes affected by Hurricanes Katrina and/or Rita the flexibility to deal quickly and effectively with the on going disaster recovery construction work.

This Emergency Rule shall be effective, April 10, 2008, and shall remain in effect until the expiration of the maximum period allowed under the Administrative

Procedure Act or the adoption of the final Rule, whichever comes first.

Title 34

GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY CONTROL

Part III. Facility Planning and Control

Chapter 1. Capital Improvement Projects

Subchapter C. Design-Build Method of Procuring Design and Construction Services

§161. Name

A. The name of this process shall be the "design-build selection process" also referred to hereinafter as "process."

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:121 and RS 38:2225.2.1.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Facility Planning and Control, LR 34:

§163. Authority

A. The process shall be established in accordance with RS 38:2225.2.1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:121 and RS 38:2225.2.1.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Facility Planning and Control, LR 34:

§165. Purpose

A. The purpose of this Subchapter shall be to provide for the selection of entities to provide design/build construction services in which the design and construction phases are combined.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:121 and RS 38:2225.2.1.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Facility Planning and Control, LR 34:

§167. Applicability

A. The following public agencies may utilize the design-build method in the construction or repair of any public building or structure which has been destroyed or damaged by Hurricanes Katrina, Rita or both: the Division of Administration, the Recovery School District, the City of New Orleans and parish governments in Calcasieu, Cameron, Jefferson, Orleans, Plaquemines, St. Bernard, St. Tammany, and Vermilion Parishes and the Port of New Orleans.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:121 and RS 38:2225.2.1.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Facility Planning and Control, LR 34:

§169. Definitions

A. For the purposes of this Rule certain terms shall have the following meanings. All required licenses for each component shall be obtained prior to the award of the project to the selected entity.

Architect—the entity contractually responsible for delivering the project design and duly licensed and registered by the Louisiana State Board of Architectural Examiners as provided for in R.S. 37:141 et seq., and its rules and regulations.

Contractor—the entity contractually responsible for delivering the project construction and duly licensed and registered as a general contractor by the State Licensing

Board for Contractors as provided for in R.S. 37:2150 et seq., and its current rules and regulations.

Design-Build—a construction process in which the design and construction phases are combined and the design-builder is selected by a qualifications-based process with an established schedule and price.

Design-Builder—the entity contractually responsible for delivering the project design and construction who shall be licensed as either a contractor, an architect or an engineer as defined herein. For projects that are primarily architectural, the entity shall be a contractor or an architect. For projects that are primarily engineering, the entity shall be a contractor or an engineer.

Engineer—the entity contractually responsible for delivering the project design and duly licensed and registered by the Louisiana Professional Engineering and Land Surveying Board as provided for in R.S. 37:681 et seq., and its rules and regulations.

Public Agency—a state or local governmental unit. For the purposes of this rule these are limited to those defined in §167 of this Chapter.

B. All required licenses for each component shall be obtained prior to the award of the project to the selected entity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:121 and RS 38:2225.2.1.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Facility Planning and Control, LR 34:

§171. Rights and Powers of Each Design-Builder

A. Each design-builder shall have the following rights and powers.

1. The design-builder may sublet responsibility for professional design services to an individual, firm, or corporation duly licensed and registered in the state of Louisiana to provide professional design services.

2. The design-builder may sublet responsibility for construction or other services requiring a contractor's or trade subcontractor's license to persons or entities duly registered, licensed, or otherwise qualified to provide those services as required by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:121 and RS 38:2225.2.1.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Facility Planning and Control, LR 34:

§173. Process for Selection of Design-Builder

A. A two stage process shall be used to select the design-builder. The two stages are:

1. request for qualifications stage;
2. technical proposals stage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:121 and RS 38:2225.2.1.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Facility Planning and Control, LR 34:

§175. Request for Qualifications—Letter of Interest

A. A public announcement shall be made to solicit letters of interest for a design-build project. The announcement shall be distributed through advertisement in publications that will insure adequate competition and opportunities for qualified entities. These shall include at a minimum the Daily Journal of Commerce, the Baton Rouge Advocate, the

New Orleans Times-Picayune, the Shreveport Times, the Monroe News Star, the Lake Charles American Press. The announcement shall also appear on the internet home page of the public agency, if any, and by other means to ensure adequate response.

B. All such public announcements shall be advertised a minimum of 30 days prior to the deadline for receipt of responses and shall contain a brief description of the project, the required scope of services and sufficient information for a design-builder to determine its interest and to enable it to submit a letter of interest. The notice of intent may be re-advertised using additional media or publications in an attempt to solicit additional responses if the initial number of responses received is inadequate.

C. A brief description of the project shall be included in the letter. The description shall include but not limited to the following: The proposed function(s); approximate size or capacity in terms of square feet, number of occupants, beds, cars, books, etc.; level of quality; key factors in the public agency's program; a brief description of any existing buildings or structures; special systems; any specialized skill(s) required; preliminary budget based on the agencies best information and any other information that will allow potential design-builders to determine whether or not they are interested in the project.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:121 and RS 38:2225.2.1.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Facility Planning and Control, LR 34:

§177. Request for Qualifications—Qualifications Package

A. The public agency shall provide a request for a qualifications package to design-builders who submit a letter of interest. The qualifications package shall include the technical proposal as defined in §185 including the intention of awarding a stipend. All required information shall be identified in the request for qualifications package and in the standard response forms. The response to a request for qualifications package shall include statements of qualification by credentials and experience of design component members for the areas of expertise specific to the project and statements of qualification by experience and resources of the construction team component. The completed response form and any other required information shall be transmitted by the responding design-builder by the deadline to submit such forms and information as provided in the request for qualifications package. Any response failing to meet all of the requirements contained in the request for qualifications package shall not be considered by the public agency. False or misrepresented information furnished in response to a request for qualifications package shall be grounds for rejection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:121 and RS 38:2225.2.1.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Facility Planning and Control, LR 34:

§179. Request for Qualifications—Evaluation Committee

A. A qualifications evaluation committee shall evaluate the responses to the request for qualifications package received by the public agency. The qualifications evaluation

committee shall consist of a minimum of three members designated by the Director of Facility Planning and Control for projects administered by that agency or the equivalent agency head for other agencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:121 and RS 38:2225.2.1.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Facility Planning and Control, LR 34:

§181. Request for Qualifications—Evaluation Criteria

A. The following general criteria used by the qualifications evaluation committee in evaluating responses to the request for qualifications package for design-build services shall apply to both the design and construction components of any responding entity.

1. Professional training and experience of both the design and construction entity components and of key personnel in general and as related to the project under consideration.

2. Past and current professional accomplishments, for which opinions of clients or former clients and information gathered by inspection of current or recent projects may be considered.

3. Capacity for timely completion of the work, taking into consideration the person's or firm's current and projected workload and professional and support manpower.

4. The nature, quantity, and value of agency work awarded to both the design and construction components the applicant entity, it being generally desirable to allocate such work among persons who are desirous and qualified to perform such work.

5. Past performance on public projects, including any problems with time delays, cost overruns, and design inadequacies for which the designer was held to be at fault.

6. Whether problems as indicated in Subclause (e) herein resulted in litigation between the public agency and the person performing professional services, particularly if the designer is currently involved in unsettled litigation with a public agency or has been involved in litigation with a public agency where the public agency prevailed.

7. Any project-specific criteria as may apply to project needs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:121 and RS 38:2225.2.1.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Facility Planning and Control, LR 34:

§183. Request for Qualifications—Short List Selection

A. The qualifications evaluation committee shall select a short list of not fewer than three of the highest rated entities; however, if fewer than three responses are received, the head of the public agency may approve proceeding with the evaluation process. The qualifications evaluation committee may, at its discretion, be assisted by other agency personnel in its evaluation of an entity's qualifications. The qualifications evaluation committee shall present its short list to the Director of Facility Planning and Control for projects administered by that agency or the equivalent agency head for other agencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:121 and RS 38:2225.2.1.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Facility Planning and Control, LR 34:

§185. Technical Proposal—Notification

A. The entities included on the short list shall be notified of their selection and invited to submit a detailed technical proposal for the design-build project. The specific requirements of the technical proposal shall be identified by the agency to the entities included in the short list by means of a "scope of services package" which shall be provided to all entities invited to submit a technical proposal. The scope of services package may include enhancements, clarifications and modifications to the scope of services included with the request for qualifications only if they fall within the scope of the project.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:121 and RS 38:2225.2.1.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Facility Planning and Control, LR 34:

§187. Technical Proposal—Scope of Services Package

A. Generally the scope of services package shall define the scope of work or architectural program. The scope of services package shall also define the response including the format and the required information including, but not limited to, the following:

1. statement of purpose;
2. definition of terms;
3. time factors;
4. point of contact;
5. requirements for submission;
6. design-builder responsibilities;
7. public agency responsibilities;
8. detailed evaluation criteria including scoring and weighting factors;
9. form of contract;
10. insurance, indemnification and limits of liability;
11. surety requirements;
12. payment terms;
13. termination;
14. audit requirements;
15. level of quality;
16. requirements of the scope which are critical to the public agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:121 and RS 38:2225.2.1.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Facility Planning and Control, LR 34:

§189. Technical Proposal—Submittal

A. Generally, the technical proposal shall include, but not be limited to, the following:

1. discussion of the entity's understanding of the scope of services;
2. discussion of the entity's understanding of the scope of work or architectural program;
3. discussion of design strategy to implement the scope of work or architectural program;
4. proposed design approach;
5. materials and methods of construction;
6. construction techniques and sequencing;
7. schedule for commencement and completion of all phases of work;
8. lump sum cost for all services in fulfillment of the requirements and within the constraints of the "scope of services package."

B. The invitation to the short-listed entities shall specify a deadline for submission of such proposals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:121 and RS 38:2225.2.1.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Facility Planning and Control, LR 34:

§191. Technical Proposal—Compensation for Proposals

A. For more complex projects and projects with scopes which permit flexibility and innovation in the design approach, the agency shall compensate unsuccessful and responsive short-listed entities for the expense of preparing the technical proposal. The determination of whether or not compensation will be paid for the technical proposal and the amount shall be predetermined by the agency and shall be included in the scope of services package. The agency may use concepts submitted by any paid short-listed entity to construct the project. Compensation shall be appropriate for the scope and complexity of the project and for the opportunities for innovation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:121 and RS 38:2225.2.1.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Facility Planning and Control, LR 34:

§193. Technical Proposal—Evaluation Committee

A. The Director of Facility Planning and Control for projects administered by that agency or the equivalent agency head for other agencies shall establish a technical review committee for evaluation of design-build proposals. The technical review committee shall consist of at least three but no more than five building construction professionals with expertise in diverse fields of the construction industry including at least one design professional and one contractor. At least one of the members shall be from the private sector and at least one shall be from the public sector.

B. The technical review committee may select additional agency engineering and technical experts, and nationally recognized design-build experts to serve as committee members to score each technical element of the project.

C. The technical review committee shall identify specific technical elements of the project, based on the specific requirements of the technical proposal and depending on the characteristics of the project, to be included in the technical score.

D. Members of the technical review committee shall not have served as members of the qualifications evaluation committee.

E. Each member of the technical review committee shall make his scoring of assigned elements available for public review. Such scores shall be considered public record. The public agency shall make all scores available to the public simultaneously.

F. The price shall not be opened until the appeal period defined in §195 is passed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:121 and RS 38:2225.2.1.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Facility Planning and Control, LR 34:

§195. Technical Proposal—Adjusted Score

A. An adjusted score approach shall be used by the public agency in determining the winning proposal. An adjusted score shall be determined using the following components:

1. the technical score determined by the technical review committee. Weighing factors may be assigned to each element depending on its relative magnitude or significance to the overall project. Each technical review committee member shall rate his assigned element of the proposal from each of the design-builders on the short list and shall submit such scores to the chairman of the technical review committee. The schedule and price bid shall not be made known to the technical review committee during the scoring process. The chairman of the technical review committee shall adjust the scores for any applicable weighing factors and shall determine the total technical score for each proposal. Prior to determining the adjusted score, the chairman of the technical review committee shall notify each design-builder, in writing, of each design-builder's final total technical score;

2. the time value, consisting of the product of the proposed contract time expressed in calendar days multiplied by the value-per-calendar-day expressed in dollars established by the public agency and included in the scope of services package;

3. the price proposal.

B. The winning proposal shall be the proposal with the lowest adjusted score. The adjusted score for each design-build proposal shall be determined by the following formula: Adjusted Score = (Price Bid + Time Value) divided by Technical Score. If the Time Value is not mandatory and if it is not used, the Adjusted Score shall be determined by the following formula: Adjusted Score = Price Bid divided by Technical Score.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:121 and RS 38:2225.2.1.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Facility Planning and Control, LR 34:

§197. Technical Proposal—Appeal

A. Design-builders who have submitted bona fide proposals may, within seven days of the announcement of the technical scores, challenge the scores based on any of the foregoing reasons, and only those reasons, by submitting a letter to the head of the public agency describing in detail the reasons for the challenge. The head of the public agency shall have the authority to resolve any challenge concerning the award of a contract. A written decision shall be rendered within 14 days and shall be mailed or otherwise furnished immediately to the design-builder making the challenge. The decision shall be final and no appeal based on price will be allowed unless:

- 1. the decision is fraudulent; or
- 2. the appeal is timely:
 - a. if the public agency is a state entity, the person adversely affected by the decision has timely appealed to the court in accordance with R.S. 39:1691(A);
 - b. if the public agency is a non-state entity, the person adversely affected by the decision has timely appealed to the court of proper venue for the public agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:121 and RS 38:2225.2.1.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Facility Planning and Control, LR 34:

§199. Technical Proposal—Finality

A. Once the design-builder has been chosen and a contract for a stipulated schedule and sum certain price executed, the price of the design-build contract shall not be increased other than for inflation as prescribed in the contract and for site or other conditions of which the design-builder had no knowledge and should not have had knowledge as a reasonable possibility existing at the site or concerning the design and construction or for changes on the scope of work by the public agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:121 and RS 38:2225.2.1.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Facility Planning and Control, LR 34:

Jerry W. Jones
Director

0804#050

DECLARATION OF EMERGENCY

**Department of Public Safety and Corrections
Board of Private Security Examiners**

Registration, Training, and Uniforms
(LAC 46:LIX.301, 405, and 701)

The Board of Private Security Examiners hereby exercises the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to the authority granted to the board by R.S. 37:3270 et seq., hereby adopts the following Emergency Rule.

This Emergency Rule is necessary to ensure that security officers obtain proper identification within 20 days of issuance of permanent registration and that they also wear appropriate uniform identification. Recent circumstances necessitate the need for security guards to be readily identified, not only for their safety but for safety of police officers and the general public. This Emergency Rule, effective April 10, 2008, shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LIX. Private Security Examiners

Chapter 3. Security Officer Registration

**§301. Qualifications and Requirements for Security
Officer Registration**

A. - F. ...

G. Licensee shall cut off the portion of the application identified as "temporary registration card," have the applicant complete required information, and instruct applicant to carry temporary registration card at all times while on duty. Temporary registration card is valid until applicant receives a permanent registration card from the board. The licensee or company, as the case may be, shall have 20 calendar days to issue the permanent card to the security officer once it has been received.

H. - K.4.c. ...

d. 9mm semiautomatic and shotgun;

e. - k. ...

l. 9mm semiautomatic and baton;

m. - q. ...

r. 45 caliber semiautomatic

K.5. - P.2 ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270, et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:753 (December 1987), LR 15:12 (January 1989), LR 15:848 (October 1989), LR 18:191 (February 1992), LR 23:588 (May 1997), LR 26:1072 (May 2000), LR 27:1241 (August 2001), LR 28:2204 (October 2002), LR 31:1599 (July 2005), LR 34:

Chapter 4. Training

§405. Firearms Training

A. - E.4. ...

5. 40 caliber semiautomatic weapon, minimum 4 inch barrel;

6. 45 caliber semiautomatic weapon, minimum 4 inch barrel, double action;

7. single action semiautomatic weapons are prohibited.

F. - H.1. ...

2. The shotgun course of fire shall be:

a. buckshot phase: recommend use of 9-pellet "OO" buckshot (may be fired with any buckshot);

b. 25 yards (5 rounds buckshot), total time: 35 seconds:

i. on command, assembly load two rounds of buckshot from shoulder and come to "ready gun position." Officer will have three additional rounds of buckshot on his/her person;

ii. on command, officer will fire two rounds from the shoulder (standing), then combat load three and fire three rounds from the shoulder (kneeling);

c. 15 yards (5 rounds buckshot), total time: 25 seconds:

i. officer will start with five rounds of buckshot on their person and an empty shotgun;

ii. on command, the officer will combat load five rounds of buckshot and fire two rounds from the shoulder (standing);

iii. officer will then cover target;

iv. on command, fire one round from the shoulder (standing) in two seconds;

v. on command, fire one round from the shoulder (standing) in two seconds;

vi. on command, fire one round from the shoulder (standing) in two seconds;

d. target: B-27 or P.O.S.T. qualification (P-1);

e. score: One point for hit on black of B-27 target. One point for hit on green of P-1 target:

i. total score should equal 75 percent with or without the slug phase.

I. - J.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270, et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:755 (December 1987), amended LR 15:13 (January 1989), LR 15:850 (October 1989), LR 18:192 (February 1992), LR 23:588

(May 1997), LR 26:1073 (May 2000), LR 27:1241 (August 2001), LR 28:2204 (October 2002), LR 31:1600 (July 2005), LR 34:

Chapter 7. Insignias, Markings, Restrictions, Uniforms

§701. Restrictions

A. - B. ...

C. Effective January 1, 2008, all uniforms worn by security officers shall contain the name of the company for whom they are employed. Effective July 1, 2008, all outerwear worn by security officers shall contain the name of the company for whom they are employed.

D. All requests for plain clothes security officers shall be made to the board and approval in writing from the board must first be obtained prior to any security officer being allowed to work an assignment out of uniform.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:758 (December 1987), amended LR 15:14 (January 1989), LR 15:852 (October 1989), LR 18:195 (February 1992), LR 26:1074 (May 2000), LR 34:

Wayne R. Rogillio

Executive Secretary

0804#028

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections State Uniform Construction Code Council

Disciplinary Proceedings (LAC 55:V.1102)

The Louisiana Department of Public Safety and Corrections, Louisiana State Uniform Construction Code Council hereby adopts the following Emergency Rule governing the implementation of Act 12 of the 2005 First Extraordinary Session, R.S. 40:1730.21 et seq. This Rule is being adopted in accordance with the Emergency Rule provisions of R.S. 49:953(B) of the Administrative Procedure Act. This Emergency Rule becomes effective on the date of the signature by the authorized representative of the Louisiana State Uniform Construction Council, April 9, 2008, and shall remain in effect for the maximum period allowed by the APA, which is 120 days.

As a result of the widespread damage caused by Hurricanes Rita and Katrina, the legislature enacted and mandated a state uniform construction code to promote public safety and building integrity. This new code went into effect statewide on January 1, 2007. The Louisiana State Uniform Construction Code Council ("Council") promulgated rules governing the adoption of the state uniform construction code and various other matters. The council instituted, in the regular rulemaking process, a Rule pertaining to informal disciplinary proceedings against those individuals holding a certificate of registration. In this previous Rule, the process for informal proceedings were not streamlined. Recently, the council has been receiving written complaints against certain certificate of registration holders. In order to more efficiently investigate and commence informal action against a certificate of registration holder, it was necessary to amend §1102. Immediately adopting this

rule will provide for a more efficient informal proceeding process when investigation complaints filed against an individual holding a certificate of registration.

Title 55

PUBLIC SAFETY

Part VI. Uniform Construction Code

Chapter 11. Disciplinary Proceedings

§1102. Informal Proceedings

A. Notice. If the Council receives written information indicating that a person holding a certificate of registration (registrant) is violating or has violated any provision of R.S. 40:1730.21 et seq., or this Part, the council, after an informal investigation, by the council administrator or his/her designee, shall notify the registrant, in writing, of the findings of the informal investigation by the council administrator. The council administrator is authorized to conduct the informal investigation by telephone or site visit as deemed necessary by the council administrator. Furthermore, for complaints involving an immediate safety threat or dangerous condition, the council administrator shall notify, in writing, the local building official of the complaint. After presentation of a report by the council administrator, the council may, in writing, order the registrant to immediately cease the conduct or violation.

B. Response. The registrant after written informal notice from the council, shall respond in writing to the council's informal notice within 21 days of receipt by providing the council with a written statement containing any information related to the allegations of the informal notice which would show compliance with all requirements for retention or renewal of his/her certificate of registration. In lieu of providing a written statement, the registrant may request, in writing to the council administrator, an informal conference with the council chair, code enforcement advisory committee chair, council administrator, and legal counsel. In the event that a resolution to the matter is not accomplished during the informal procedures, the council administrator shall forward a report to the council for initiation of the formal procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D), and 40:1730.26(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:293 (February 2007), amended LR 34:

Paeton L. Burkett
Attorney

0804#059

DECLARATION OF EMERGENCY

Department of Revenue Policy Services Division

State Sales Tax Holiday on Purchases of Hurricane Preparedness Items (LAC 61:I.4423)

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, which allows the Department of Revenue to use emergency procedures to establish rules, R.S. 47:295 and R.S. 47:1511, which allow the department to make reasonable rules and regulations, the Secretary of Revenue hereby finds that due to the impending state sales tax holiday, imminent peril to

the public welfare exists and accordingly adopts the following Emergency Rule. This Emergency Rule shall be effective, March 20, 2008, and shall remain in effect until the expiration of the maximum period allowed under the Administrative Procedure Act or the adoption of the final Rule, whichever comes first.

This Emergency Rule is necessary to allow the secretary to administer the state sales tax holiday for the tax year 2008 and beyond. R.S. 47:305.58 as enacted by Act 429 of the 2007 Regular Session of the Legislature allows for an annual state sales tax exemption on sales made on the last Saturday and Sunday of each May of certain hurricane-preparedness items or supplies. Because Act 429 does not define several terms as they are used in the Act, the Department of Revenue is compelled to define those terms and set a procedure for application of the Act.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered By the Secretary of Revenue

Chapter 44. Sales and Use Tax Exemptions

§4423. State Sales Tax Holiday on Purchases of Hurricane Preparedness Items

A. Louisiana Revised Statute 47:305.58 allows for an exemption of the state sales tax on sales made on the last Saturday and Sunday of each May of certain hurricane-preparedness items or supplies.

1. Tax-free purchases are authorized on the first \$1,500 of the sales price of each hurricane-preparedness item.

2. The sales tax exemption only applies to purchases of the following items or supplies:

- a. any portable-self-powered light source;
- b. any portable self-powered radio, two-way radio, or weather band radio;
- c. any tarpaulin or other flexible waterproof sheeting;
- d. any ground anchor system or tie-down kit;
- e. any gas or diesel fuel tank;
- f. any package of AAA-cell, AA-cell, C-cell, D-cell, 6 volt, or 9-volt batteries, excluding automobile and boat batteries;
- g. any cell phone battery and any cell phone charger;
- h. any non-electric food storage cooler;
- i. any portable generator used to provide light or communications or preserve food in the event of a power outage;
- j. any *storm shutter device*, as defined in the Act;
- k. any carbon monoxide detector;
- l. any reusable freezer pack such as *blue ice*.

3. The state sales tax exemption provided does not apply to hurricane-preparedness items or supplies sold at any airport, public lodging establishment or hotel, convenience store, or entertainment complex.

B. Definitions

Airport—any area of land or water, except a restricted landing area, which is designed for the landing and takeoff of aircraft, whether or not facilities are provided for the sheltering, servicing, or repairing of aircraft or for receiving or discharging passengers or cargo; all appurtenant areas used or suitable for airport buildings or other airport

facilities; and all appurtenant rights of way including easements through or other interest in air space over land or water and other protection privileges, the acquisition or control of which is necessary to insure safe approaches to the landing areas and efficient operation thereof.

Hotel—any establishment engaged in the business of furnishing sleeping rooms, cottages, or cabins to transient guests, where such establishment consists of six or more sleeping rooms, cottages, or cabins at a single business location. The term *public lodging establishment* is interpreted to include other businesses that offer lodging to transient guests for compensation, including bed and breakfast businesses.

Convenience Store—retail businesses that are smaller in square footage than full-line grocery stores, discount stores, department stores, or pharmacies, and that place primary emphasis on providing the public convenient locations from which to quickly purchase from limited lines of consumable products. In order to be considered a *convenience store*, sales must consist primarily of motor fuel and lubricants; snack foods, including sandwiches, hot dogs, candy, nuts, and chips; beer; liquor; wine; tobacco products; soft drinks; fishing baits; newspapers; and magazines, and the sales of the business must be sufficiently diversified within these product lines so that the business is not classified as a specialty retailer such as a liquor store, sandwich shop, newsstand, or tobacco shop. Convenience stores typically have the following characteristics:

- a. inside sales areas that are less than 5,000 sq. ft.;
- b. off-street parking and/or convenient pedestrian access; and
- c. extended hours of operation with many open 24 hours, seven days a week.

Entertainment Complex—a premise that is a site for the performance of musical, theatrical, or other entertainment; country clubs; tennis clubs; swimming clubs; bowling establishments; skating rinks; movie theatres; amusement parks; zoos; or similar entertainment-oriented businesses.

C. Procedure for State Sales Tax Holiday

1. A taxpayer may make state sales tax-free purchases on the first \$1,500 of the sales price on each of the above enumerated hurricane-preparedness items or supplies on the last Saturday and Sunday of each May.

2. The state sales tax holiday shall not apply to any vendor qualifying under the above enumerated definitions of airport, public lodging establishment or hotel, convenience store, or entertainment complex.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:287.759, R.S. 47:1601, R.S. 47:1603, R.S. 47:287.785, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 34:

Cynthia Bridges
Secretary

0804#006

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

Food Stamp Program (LAC 67:III.1940)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of the Administrative Procedure Act, in accordance with R.S. 49:953(B) to adopt revisions to LAC 67:III, Subpart 3, Food Stamp Program, Chapter 19, Certification of Eligible Households, Subsection 1940, Work Participation Requirements for Able-Bodied Adults without Dependents. This Rule shall be effective May 3, 2008, and remain in effect for a period of 120 days. This declaration is necessary to extend the original Emergency Rule which was published January 20, 2008, and was effective January 4, 2008, since it is effective for a maximum of 120 days and will expire before the final Rule takes effect. (The final Rule will be published in the May 2008 *Louisiana Register* issue.)

Revisions are needed in order to be consistent with federal regulations for the Food Stamp Program in 7 CFR 273.24. Failure to comply with federal regulations regarding the Food Stamp Program can result in federal sanctions. Changes include corrections to the exemptions to the work participation requirements for able-bodied adults without dependents and clarification of language concerning the one-time three month extension of eligibility for individuals who regain eligibility but are no longer fulfilling the work requirement provisions. The changes do not affect current recipients because prior to November 1, 2007, Louisiana had a statewide waiver from the work participation requirements for able-bodied adults without dependents.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 3. Food Stamp Program

Chapter 19. Certification of Eligible Households

Subchapter G. Work Requirements

§1940. Work Participation Requirements for Able-Bodied Adults without Dependents

NOTE: Effective 10/1/97 by ER

A. - A.3. ...

B. An individual is exempt from this requirement if the individual is:

1. under 18 or 50 years of age or older;
2. medically certified as physically or mentally unfit for employment;
3. a parent of a household member under 18, even if the household member who is under 18 does not receive food stamps;
4. residing in a household where a household member is under age 18, even if the household member who is under 18 does not receive food stamps;
5. pregnant; or

6. otherwise exempt from work registration requirements.

C. Individuals can regain eligibility for assistance.

1. - 1.c. ...

2. An individual who regained eligibility and who is no longer fulfilling the work requirement is eligible for three consecutive countable months one time in any 36 month period, starting on the date the individual first notifies the agency that he or she is no longer fulfilling the work requirement, unless the individual has been satisfying the work requirement by participating in a work or workfare program, in which case the period starts on the date the agency notifies the individual that he or she is no longer meeting the work requirement.

D. The first countable month of this provision is November 1996.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, 7 CFR 273.24.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:81 (January 1997), amended LR 34:

Ann Silverberg Williamson
Secretary

0804#046

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Shrimp Season—Partial Reopening in State Outside Waters

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries

Commission to use emergency procedures to set shrimp seasons, and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall have the authority to open or close outside waters by zone each year as it deems appropriate upon inspection of and based upon technical and biological data which indicates that marketable shrimp, in sufficient quantities, are available for harvest, and a Resolution adopted by the Wildlife and Fisheries Commission on December 6, 2007 which authorizes the Secretary of the Department of Wildlife and Fisheries to reopen any area closed to shrimping when the closure is no longer necessary, the secretary hereby declares:

That state outside waters from the eastern shore of the Atchafalaya River Ship Channel at Eugene Island as delineated by the channel red buoy line to the U.S. Coast Guard navigational light off the northwest shore of Caillou Boca at 29 degrees 03 minutes 10 seconds north latitude and 90 degrees 50 minutes 27 seconds west longitude, shall reopen to shrimping at 12:00 noon April 15, 2008.

Recent biological samples taken by department personnel indicate that small white shrimp which have over-wintered in these waters from December through the present time have reached marketable sizes and the closure is no longer necessary. Significant numbers of small white shrimp still remain in State Outside Waters west of the Atchafalaya River Ship Channel to the western shore of Freshwater Bayou Canal at 92 degrees 18 minutes 33 seconds west longitude, and this area will remain closed to shrimping until further notice.

Robert J. Barham
Secretary

0804#039

Rules

RULE

Department of Culture, Recreation and Tourism Office of Cultural Development

Cultural Districts (LAC 25:I.Chapter 11)

The Louisiana Department of Culture, Recreation and Tourism, Office of Cultural Development has adopted the following Rule pursuant to Act 298 of the 2007 Regular Session of the Legislature, in accordance with the provisions of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq. The Rule sets forth the standards and procedures for the creation and management of cultural products districts, also called cultural districts, which may be used by local governing authorities as a mechanism for community revitalization through the creation of hubs of cultural activity.

Title 25

CULTURAL RESOURCES

Part I. Office of Cultural Development

Chapter 11. Cultural Districts

§1101. Purpose and Authority

A. This Chapter sets forth the standards and procedures for the creation and management of cultural products districts, also called cultural districts, which may be used by local governing authorities as a mechanism for community revitalization through the creation of hubs of cultural activity.

B. These regulations are adopted pursuant to Act 298 of the 2007 Regular Session of the Louisiana Legislature

AUTHORITY NOTE: Promulgated in accordance with Act 298 of the 2007 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of Cultural Development, LR 34:599 (April 2008).

§1103. Definitions

A. The following definitions shall apply for purposes of this Chapter, unless specifically defined otherwise.

Assistant Secretary—the assistant secretary of the office of cultural development, Department of Culture, Recreation and Tourism.

Cultural Products District or Cultural District—an area designated by a local governing authority and certified by the Department of Culture, Recreation and Tourism in accordance with the statutory and regulatory procedures, standards, and criteria pertaining to such districts, which district shall be created for the purpose of revitalizing a community by creating a hub of cultural activity, which may include affordable artist housing and workspace.

Department—the Department of Culture, Recreation and Tourism.

Local Governing Authority—the governing authority of the parish in which the Cultural District is located unless the district is located within a municipality, in which case "local governing authority" shall mean the governing authority of the municipality. If the district is located partly in a

municipality, "local governing authority" shall mean the governing authority of the parish and the governing authority of the municipality.

Secretary—the Secretary of the Department of Culture, Recreation and Tourism.

AUTHORITY NOTE: Promulgated in accordance with Act 298 of the 2007 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of Cultural Development, LR 34:599 (April 2008).

§1105. Application

A. A local governing authority may submit to the department an application to designate and certify a specified geographic area as a cultural district.

B. Applications shall be submitted in accordance with the timetable and in the format provided by department policy.

C. If the department, acting through the assistant secretary, deems the application incomplete or requires additional information, the department shall notify the local governing authority through its designated contact, and in such notice, the department shall specify the deficiencies and/or information required to complete the application.

1. If the local governing authority is notified of a deficiency in the application or additional information is requested, the local governing authority shall remedy the deficiency or provide the requested information within 30 days after issuance of the notice of deficiency.

2. If the local governing authority does not remedy the deficiency or provide the requested information within 30 days of issuance of the notice of deficiency, the application will be deemed incomplete and will not be reviewed further.

AUTHORITY NOTE: Promulgated in accordance with Act 298 of the 2007 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of Cultural Development, LR 34:599 (April 2008).

§1107. Criteria

A. The assistant secretary shall evaluate the proposed cultural district to determine whether it meets the mandatory criteria set forth in R.S. 47:305.56.

B. If the proposed district meets the mandatory criteria, the assistant secretary shall then evaluate the potential of the proposed cultural district to accomplish the following purposes:

1. revitalize a neighborhood or area;
2. stimulate the economy;
3. engage residents;
4. draw tourists;
5. provide a sense of community;
6. serve as a gathering place;
7. encourage creativity;
8. strengthen community partnerships;
9. promote the arts and support artists;
10. develop a positive image for the area;
11. enhance property values; and
12. capitalize on local cultural, economic and social assets.

AUTHORITY NOTE: Promulgated in accordance with Act 298 of the 2007 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of Cultural Development, LR 34:599 (April 2008).

§1109. Determination and Appeals

A. The department, through the assistant secretary, will notify the local governing authority in writing whether the proposed cultural district has been certified as proposed, has been certified with amendments, or has been returned with no action.

B. Within 30 days of the local governing authority's receipt of the decision of the department, the local governing authority may submit a request for administrative review to the secretary. A request for administrative review shall include the following:

1. identification of the decision to which the request pertains;
2. a statement of the decision sought;
3. a statement of the facts and reasons upon which such relief is requested; and
4. the name and address to which the department will send all communications regarding the request.

C. The effective date of the certification shall be the date specified in the final written notice of approval.

AUTHORITY NOTE: Promulgated in accordance with Act 298 of the 2007 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of Cultural Development, LR 34:600 (April 2008).

§1111. Reporting requirements

A. By January 31 of each year, the local governing authority shall prepare and submit to the department an annual report on the impact of the certified cultural district with regard to the purposes of the creation of a cultural district.

B. The local governing authority shall submit the annual report in the format set forth by the department.

C. The annual report shall reflect the activity of the prior calendar year.

D. The annual report shall also include cumulative data reflecting activity since the date of the creation of the cultural district.

E. The report shall include information that describes the impact of the tax exemption programs, the tax credit programs, and any other factors that describe the impact of the cultural district on the community, which information shall include but is not limited to:

1. the number, value, and type of historic rehabilitation tax credits applied for;
2. the number, value, and type of historic rehabilitation tax credits awarded;
3. the value of investment in the district through rehabilitation projects or other projects;
4. the number of occupied buildings and use of those buildings;
5. the number of vacant buildings;
6. the sales tax revenue generated in the district;
7. the amount of sales tax revenue not collected on sales of original, one of a kind works of art; and
8. any other evidence of the level of cultural activity in the district.

F. If the local governing authority fails to submit the annual report timely, the department shall report such failure to the House Committee on Ways and Means, the Senate Committee on Revenue and Fiscal Affairs, and the local legislators in whose legislative districts the cultural district is located.

G. If the local governing authority fails to submit the annual report, the department may revoke certification of the cultural district using the procedure set forth in Section 1119. Such revocation shall not become effective less than one year from the date the department issues the notice of failure to the local governing authority.

AUTHORITY NOTE: Promulgated in accordance with Act 298 of the 2007 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of Cultural Development, LR 34:600 (April 2008).

§1113. Sales Tax Exemption

A. Sales and use taxes imposed by the state of Louisiana or any of its political subdivisions shall not apply to the sale of original, one-of-a-kind works of art from an established location within the boundaries of a cultural district.

B. An established location shall be any location within the boundaries of the cultural district.

C. Vendors of original, one-of-a-kind works of art should register with the department in order to receive regular communication from the office of cultural development and the Department of Revenue on rulings, guidelines, and advice regarding the implementation of this provision. If a vendor meets the definition of a dealer as provided in R.S. 47:301(4), then the vendor must register with the Department of Revenue as provided by law.

D. Vendors shall certify and document the tax-exempt sale of original, one-of-a-kind works of art in the format prescribed by the Department of Revenue, and shall include the following:

1. a description of the work of art including its medium and dimensions, the name of the artist, its date of creation, and the name, contact information, and qualifications of the person vouching for this information; and
2. a statement by the vendor certifying that to the best of his knowledge the work of art meets the definition of a tax-exempt work of art.

E. The certificates and documents described above shall be retained by the vendor for purposes of audit. Vendors shall provide to the purchaser documentation in the form of an exemption certificate certifying the purchase of an original, one-of-a-kind work of art.

F. Vendors shall submit copies of said certificates and documentation to the local governing authority and the department on an annual basis, by January 1, for the activity of the preceding year, and the vendor shall retain copies of said certificates and documentation for inspection by the Department of Revenue.

G. Prior to the sale, vendors may seek advance advisory opinions from the department, acting through the office of cultural development, to determine whether a specific work of art meets the definition of a tax-exempt work of art.

H. After the sale and upon request of any taxing authority, the office of cultural development, may issue rulings on whether a specific work of art meets the definition of a tax-exempt work of art.

I.1. A work of art is tax exempt if it is sold from an established location within a cultural district and it is:

- a. original;
- b. one-of-kind, except as further defined in Paragraph 2 below;
- c. visual art;
- d. conceived and made by hand of the artist or under his direction; and
- e. not intended for mass production.

2. Examples of eligible media and products include:

- a. visual arts and crafts, including but not limited to drawing, painting, sculpture, clay, ceramics, fiber, glass, leather, metal, paper, wood, or mixed media; and
- b. limited, numbered editions (up to 100) of lithographs, photography, silk screen, intaglios, etchings, graphic design, giclees, installation art, light sculpture, digital sculpture, video production, and wearable art.

3. Examples of ineligible media and products include:

- a. performing art;
- b. food products;
- c. live plants, such as bonsai trees, floral arrangements, wreaths, and garland;
- d. music recordings; and
- e. reproductions.

J. If an audit reveals that sales tax was not collected properly on a work of art, the vendor or purchaser shall remit the amount of the uncollected tax to the proper taxing authorities, along with any penalties or fees. This provision does not affect the assessment and collection procedures undertaken by the Department of Revenue.

AUTHORITY NOTE: Promulgated in accordance with Act 298 of the 2007 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of Cultural Development, LR 34:600 (April 2008).

§1115. Boundaries

A. Following adequate public notice and a period for public comment, a local governing authority may submit to the department an application to amend the boundaries of an established cultural district.

B. Applications shall be submitted in accordance with in the format provided by the department, and shall include:

1. identification of the changes from the current to proposed boundaries;
2. a description of the zoning and/or use of the property that would be included or excluded under the proposed boundary change;
3. the reasons for the proposed change;
4. documentation that the public was notified of the proposed boundary change and had an opportunity to respond in writing to support or oppose the change;
5. all letters, statements, surveys or other indicia of support for the boundary change, including a resolution of support by the local governing entity;
6. all letters, statements, surveys or other indicia of opposition to the proposed boundary change, to the extent such are known or should be known to the local governing authority.

C. If the department deems the application incomplete or requires additional information, the department shall notify the local governing authority through its designated contact, and in such notice, the department shall specify the

deficiencies and/or information required to complete the application. The local governing authority shall remedy the deficiency as set forth in §1105.

D. The department shall inform the local governing authority whether the proposed boundary change has been approved as proposed or has been returned with no action.

E. Within 30 days of the local governing authority's receipt of the decision of the department, acting through the assistant secretary, the local governing authority may submit a request for administrative review to the secretary by following the procedure outlined in §1109.B.

F. The effective date of the approved boundary change shall be one year from the date the local governing authority receives final approval from the department.

AUTHORITY NOTE: Promulgated in accordance with Act 298 of the 2007 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of Cultural Development, LR 34:601 (April 2008).

§1117. Termination by Local Governing Authority

A. Following adequate public notification and a period for public comment, a local governing authority may terminate the existence of an established cultural district by resolution or ordinance.

B. At a minimum, the local governing authority shall publish notice of its intent to terminate the cultural district in the local newspaper and shall take all necessary and reasonable steps to contact by mail all property owners, tenants, the department, and any other organization or individual who has requested to receive such notices.

C. The notice shall include:

1. identification of the cultural district to be terminated;
2. the reasons for the proposed termination;
3. the name and contact information for the individual to whom the public to submit comments to support or oppose the termination;
4. the date, time, and location of a public hearing, if any;
5. the deadline to receive public comment.

D. The effective date of the termination shall be the date specified in the written notice, and which shall be not less than one year from the date of the notice.

AUTHORITY NOTE: Promulgated in accordance with Act 298 of the 2007 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of Cultural Development, LR 34:601 (April 2008).

§1119. Termination by the State

A. The department may initiate procedures to revoke certification of a cultural district under the following circumstances:

1. the local governing authority fails to submit the required reports and documentation set forth in this Chapter;
2. the local governing authority fails to submit the required reports and documentation timely, accurately, or completely;
3. the mandatory criteria, goals, or objectives are no longer met;
4. a cost-benefit analysis conducted or approved by the department reveals that the cultural district is no longer in the public interest.

B. Following adequate public notification and a period for public comment, the department may proceed with the revocation of certification of a cultural district as follows.

1. The department shall provide the public notice of its intent to revoke certification of the cultural district through advertisement in the local journal and through written notice by mail to the local governing authority through its designated contact.

2. The notice shall set forth the facts that warrant termination, the proposed date of termination, and the procedure by which a member of the public may submit comment, feedback, or opposition.

3. Any person who would be aggrieved by the proposed revocation shall have 60 days to request reconsideration of the revocation, which request shall include documentation or other evidence that revocation is not warranted.

4. The department shall issue its final decision no less than ninety days following its initial notice of intent to revoke certification.

5. The effective date of the revocation shall be the date specified in the written notice of intent, and which shall be not less than one year from the date of public notice.

AUTHORITY NOTE: Promulgated in accordance with Act 298 of the 2007 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of Cultural Development, LR 34:601 (April 2008).

Angele Davis
Secretary

0804#049

RULE

Department of Economic Development Office of Business Development

Mentor-Protégé Program (LAC 19:II.Chapter 5)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Economic Development, Office of Business Development, has amended its existing rules and regulations relative to its Mentor-Protégé Program, and adopted the following amended rules and regulations relative to the Mentor-Protégé Program. The action complies with the statutory law administered by the agency, as authorized by R.S. 51:941 et seq.

The department has found a need to amend in its entirety Sections 501 through 515 of Chapter 5 in accordance with Act 356 of the 2007 Regular Session of the Louisiana Legislature and R.S. 47:6026. This program provides technical and economic benefits to Louisiana-based contractors who will create and/or retain jobs for Louisiana citizens; and enhance the entrepreneurial construction business environment thereby expanding the economy of the state and enlarging quality jobs available in Louisiana.

Title 19 CORPORATIONS AND BUSINESS

Part II. Small and Emerging Business Development Program

Chapter 5. Mentor Protégé Tax Credit Program

§501. General

A. The intent of the Mentor-Protégé Tax Credit Program Act of 2007 (Act 356 of 2007; R.S. 47:6026 the provisions of which shall hereinafter be referred to as "Act 356") is to facilitate the growth and stability of Louisiana's economy by fostering the overall enhancement and development of protégé firms as a competitive contractor, subcontractor, joint venture partner, or supplier of local, state, federal, and private markets. These provisions are to be read in pari materiae with Act 356. For the purposes of this rule, the "secretary" shall be either the Secretary of Economic Development or his designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6026(D).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 23:53 (January 1997), amended LR 26:1573 (August 2000), amended by the Department of Economic Development, Office of Business Development, LR 29:545 (April 2003), LR 30:756 (April 2004), LR 34:602 (April 2008).

§503. Guidelines for Participation

A. The Mentor/Protégé Program will be open to participation by any business entity, large or small, which meets the criteria for participation as outlined below.

1. Mentor Firms:

a. committed and able to provide professional guidance and support to its protégés to facilitate their development and growth, particularly in the critical areas of private and public procurements in construction;

b. demonstrates favorable financial health, including profitability for at least the last two years;

c. demonstrates the capability to provide managerial or technical skills transfer or capacity building;

d. capable of contracting with private and public entities;

e. in "good standing" with the Secretary of State, and not in violation of any state statutes, rules, or governing policies;

f. must remain in the program for the period of the developmental assistance as defined in the mentor/protégé plan; and

g. such other requirements by the secretary as shall be consistent with Act 356.

2. Protégé Firms:

a. is not an affiliate or related party of the mentor;

b. currently certified active in the Department of Economic Development's Small and Emerging Business Development Program, or is registered in the state's Small Entrepreneurship/Hudson Initiative Program;

c. in "good standing" with the Secretary of State, and not in violation of any state statutes, rules, or governing policies;

d. must remain in the program for the period of the developmental assistance as defined in the mentor/protégé plan; and

e. such other requirements by the secretary as shall be consistent with Act 356.

B. Mentor Application and Selection

1. Approval of the secretary shall be obtained upon receipt and satisfactory review of an application that provides the information contained in the department's mentor application template (see Attachment A). Upon receipt, the secretary shall make such requests for other information necessary to a determination that the business should or should not be certified as a mentor under the rules and consistent with Act 356.

2. The application shall be reviewed by the Department of Economic Development to determine if the applicant qualifies as a mentor under the rules and consistent with Act 356.

3. Mentor applicant shall be notified by email of the status of the application.

C. Protégé Selection

1. Selection of the protégé is the responsibility, and at the discretion, of the mentor, with the concurrence of Louisiana Economic Development.

2. Protégés shall be selected from firms that are certified active in the Small and Emerging Business Development program, or are registered in the Small Entrepreneurship/Hudson Initiative program, and who are otherwise qualified under these rules before it begins participation in the mentor-protégé arrangement. A protégé selected from another source or reference must be referred to the Department of Economic Development for certification in the Small and Emerging Business Development program or the Small Entrepreneurship/Hudson Initiative program. The protégé must meet the department's guidelines for certification in one or both of these programs as a condition of the mentor/protégé agreement acceptance.

3. The mentor or Department of Economic Development will notify protégé of its application status.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6026(D).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 26:1573 (August 2000), amended by the Department of Economic Development, Office of Business Development, LR 29:545 (April 2003), LR 30:756 (April 2004), LR 34:602 (April 2008).

§505. The Mentor-Protégé Agreement

A. The mentor-protégé agreement is a written agreement between the mentor and protégé, and approved by the Department of Economic Development.

B. The mentor/protégé agreement, signed by the respective firms, shall be submitted to the Department of Economic Development for approval. The agreement shall contain a description of the developmental assistance that is mutually agreed upon and in the best developmental interest of the protégé firm.

C. The mentor-protégé agreement may set a fee schedule to cover the direct and indirect cost for such services rendered by the mentor for specific training and assistance to the protégé through the life of the agreement.

D. The mentor/protégé agreement shall include information on the mentor's ability to provide managerial or technical skills transfer or capacity building.

E. The mentor-protégé agreement shall include termination provisions complying with notice and due process rights of both parties and a statement agreeing to submit periodic report reviews and cooperate in any studies or surveys as may be required by the department in order to determine the extent of compliance with the terms of the agreement.

F. The submitted mentor/protégé agreement shall be reviewed by Louisiana Economic Development and approved if the agreement is in compliance with the program's mentor/protégé guidelines and is consistent with Act 356.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6026(D).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 26:1573 (August 2000), amended by the Department of Economic Development, Office of Business Development, LR 29:545 (April 2003), LR 30:757 (April 2004), LR 34:603 (April 2008).

§507. Internal Controls and Monitoring

A. The Secretary of the Department of Economic Development, or his designee, will designate and may change from time to time, one or more persons on his staff to act as the department's project representative or as the "mentor-protégé agreement monitor" for each mentor-protégé agreement, to provide liaison between the mentor, protégé and the department, and to perform various duties which are specifically provided for in the mentor-protégé agreement.

B. The mentor and protégé are responsible to inform the department of any problems, delays or adverse conditions which will materially affect their ability to attain agreement objectives, prevent the meeting of time schedules and goals, or preclude the attainment of agreement work units by established time schedules and goals. A statement of the action taken or contemplated by the mentor and protégé and any assistance which may be needed to resolve the situation shall accompany such disclosure.

C. Department controls will include:

1. approving, reviewing and evaluating mentor/protégé agreements for goals and objectives;

2. reviewing semi-annual progress reports submitted by mentors and protégés on protégé development to measure protégé progress against the approved agreement;

3. requesting and reviewing periodic reports and any studies or surveys as may be required by the program to determine program effectiveness and impact on the growth, stability and competitive position of small and emerging businesses in the state of Louisiana; and

4. continuous improvement of the program via ongoing and systematic research and development of program features, guidelines and operations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6026(D).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 26:1574 (August 2000),

amended by the Department of Economic Development, Office of Business Development, LR 29:546 (April 2003), LR 30:757 (April 2004), LR 34:603 (April 2008).

§509. The Mentor-Protégé Tax Credit

A. The following mentor-protégé tax credit rules shall be applicable to mentors who enter into a mentor-protégé agreement.

1. The mentor may earn and apply for and, if qualified, be granted a refundable credit on any income or corporation franchise tax liability owed to the state by the mentor. The amount of the refundable credit shall be established by the Department of Economic Development and contained in the mentor-protégé agreement.

2. The amount of the tax credits granted pursuant to the provisions of this Part shall not exceed \$50,000 per mentor-protégé agreement.

3. The mentor may participate in no more than two mentor-protégé agreements in any one tax year without the prior written approval of the secretary.

4. The mentor-protégé tax credits granted by the Department of Economic Development in any fiscal year shall not exceed \$1,000,000.

5. The mentor-protégé tax credit shall be deemed earned on the date of the investment and may be claimed in the tax year in which the investment is made. The credit earned by an individual shall be claimed on their individual income tax return, the credit earned by an S-corporation shall be claimed as provided by R.S. 47:1675(G), the credit earned by a corporation other than an S-corporation shall be claimed on the corporation income and franchise tax return of the corporation, and the credit earned by a pass through entity shall be claimed on the income or franchise tax returns of the members or partners as provided by R.S. 47:1675(F).

6. A tax credit granted pursuant to this Part shall expire and have no value or effect on tax liability beginning with the twenty-first tax year after the tax year in which it was originally earned, applied for, and granted.

7. In the event it is subsequently determined by the Department of Economic Development that the mentor has not complied with the requirements of the mentor-protégé agreement, or that the mentor was otherwise not qualified to earn a tax credit pursuant to this Part, any tax credits previously earned and applied against the mentor's tax liability shall be recaptured and added to the tax liability of the mentor for the year that such determination is made.

8. The secretary shall provide the mentor with all necessary and appropriate tax credit certificates as provided by statute and as shall assist the Department of Revenue in its determination of applicability of the credit

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6026(D).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 26:1574 (August 2000), amended by the Department of Economic Development, Office of Business Development, LR 29:546 (April 2003), LR 30:757 (April 2004), LR 34:604 (April 2008).

§511. Termination of Mentor Protégé Agreement

A. Termination for Cause. The state may terminate the mentor-protégé agreement for cause based upon the failure of the mentor or protégé to comply with the terms and/or conditions of the agreement, provided that the state shall give the mentor or protégé written notice specifying the

failure. If within 30 days after receipt of such notice, the mentor or protégé shall not have either corrected such failure or, in a case which cannot be corrected in 30 days, begun in good faith to correct said failure and thereafter proceeded diligently to complete such correction, then the state may, at its option, place the mentor or protégé in default and the agreement shall terminate on the date specified in such notice. The mentor or protégé may exercise any rights available to it under Louisiana law to terminate for cause upon the failure of the state to comply with the terms and conditions of the agreement; provided that the mentor or protégé shall give the state written notice specifying the state's failure and a reasonable opportunity for the state to cure the defect.

B. Termination for Convenience. Either party may terminate the agreement at any time by giving 30 days written notice. The mentor shall be entitled to payment for deliverables in progress, to the extent work has been performed satisfactorily. The state may amend and/or terminate the agreement due to budgetary reductions or changes in funding priorities by the state upon giving 30 days written notice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6026(D).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 26:1574 (August 2000), amended by the Department of Economic Development, Office of Business Development, LR 29:546 (April 2003), LR 30:757 (April 2004), LR 34:604 (April 2008).

§513. Non-Performance

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6026(D).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 26:1574 (August 2000), amended by the Department of Economic Development, Office of Business Development, LR 29:546 (April 2003), LR 30:758 (April 2004), repealed LR 34:604 (April 2008).

§515. Conflict Resolution

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6026(D).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 26:1575 (August 2000), amended by the Department of Economic Development, Office of Business Development, LR 29:547 (April 2003), LR 30:758 (April 2004), repealed LR 34:604 (April 2008).

Michael J. Olivier
Secretary

0804#017

RULE

Board of Elementary and Secondary Education

Bulletin 120—Adult Education Data Quality and Procedures (LAC 28:CXVII.101, 303-309, 501, 505, 507, and 701-707)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted revisions to *Bulletin 120—Adult*

Education Data Quality and Procedures: §101.Introduction, §303.Approved Assessments, §305.Placement in an Educational Functioning Level, §307.Follow-up Assessments, §309.Special Populations, §501.NRS Core and Secondary Measures, §505.Student Goal Setting for Core Measures, §507.Data Matching, §701.Data Accuracy and Entry, §703.Quarterly Reporting, §705.Literacy Pro Data System, and §707.Resolving Data Analysis Problems and Deviations.

The Department of Education has revised *Bulletin 120—Adult Education Data Quality and Procedures*, to reflect the approved additions to the USDE Nation Reporting System Guidelines, which became effective July 1, 2007. Below is a summary of the revisions to *Bulletin 120—Adult Education Data Quality and Procedures*.

1. Bulletin 120 previously named a specific software and has been revised to read "approved adult education data management system."

2. Approved assessments have been revised to reflect current USDE approved assessments.

3. Placement of students according to assessments has been given a more specific timeframe.

4. Follow-up assessments have been aligned to adhere to the test publisher's guidelines.

5. Accommodations have been changed to align with new accommodations standards.

6. "Core and Secondary Measures" Section has been changed to include Corrections as an institutional program.

7. "Reporting Core Measures" has been changed to reflect the real-time, web-based data system. Previously, reporting was done quarterly; reporting is now required monthly.

8. "Data Entry Guidelines" have been changed to require an identifying number for students who do not have a social security number. Attendance has been changed to include the requirements for distance learning.

9. "Attendance Guidelines" have been developed and added to include the policy for counting students participating in the distance learning program of adult education.

Title 28 EDUCATION

Part CXVII. Bulletin 120—Adult Education Data Quality and Procedures

Chapter 1. General Provisions

§101. Introduction

A. - A.1. ...

2. inputting data into the state approved adult education database system;

A.3. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:14.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, Adult Education Services, LR 31:3066 (December 2005), amended LR 34:605 (April 2008).

Chapter 3. Assessment and Student Placement

§303. Approved Assessments

A. The Louisiana Department of Education has approved certain assessments, which are aligned with educational functioning levels within NRS to measure student level and growth. Only assessments on this list may be used to determine student placement upon intake or demonstrate educational growth: No other assessments, other than the

assessments listed on the placement chart found in the NRS Guidelines, are to be used by local programs for placement purposes or to demonstrate educational growth at an educational functioning level.

B. - B.1. ...

2. Adult Basic Learning Examination (ABLE)

3. ...

4. WorkKeys: (to be used at the High Intermediate Basic Education and Adult Secondary Education educational functioning levels only).

C. ...

1. Basic English Skills Test (BEST) Literacy and BEST Plus;

2. ...

3. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:14.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, Adult Education Services, LR 31:3066 (December 2005), amended LR 34:605 (April 2008).

§305. Placement in an Educational Functioning Level

A. Upon administration of an approved assessment, at intake or within a short period thereafter, local programs are to place students at an educational functioning level. Charts developed from the *NRS Implementation Guidelines* are used for determining the appropriate EFL for a student. These charts are included in the instructor manual pertaining to this Part CXVII.

B. Growth can only be shown through the administration of an approved pre-test and post-test or by passing the GED test. A student who passes the GED may be given credit for completing the High Adult Secondary (ASE) level. This is the only method to show completion of this level.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:14.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, Adult Education Services, LR 31:3067 (December 2005), amended LR 34:605 (April 2008).

§307. Follow-Up Assessments

A. ...

1. attended for 60-100 hours based upon test publisher's guidelines for the amount of time needed for a student to show a meaningful gain; or

2. ...

3. has completed an Individualized Prescription of Instruction (IPI) for the area being used for NRS reporting purposes and in accordance with test publisher's guidelines. The subject area (total math, reading or total language) to be used for NRS reporting purposes is the lowest educational functioning level based upon the pre-test scores if multiple areas are assessed. The program decides the skill areas in which to assess the student based on the student's instructional needs and goals.

B. The department's benchmark for the percentage of students who are pre and post-tested is 40 percent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:14.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, Adult Education Services, LR 31:3067 (December 2005), amended LR 34:605 (April 2008).

§309. Special Populations

A. Assessments for special populations are administered with appropriate accommodations as specified by the publisher of the approved assessment. Accommodations for

the administration of assessments shall be based on copies of the student's IEP or 504 plan.

B. Accommodations for approved assessments will likely differ from accommodations for the GED test. There are four types of disabilities, learning and other cognitive disabilities, attention deficit/hyperactivity disorder, emotional/mental health or physical/chronic health disability, which are applicable to students registered for the GED test. Disabilities must be documented on the appropriate form, which is available from a GED chief examiner. Although a student may receive accommodations for assessments for placement or to measure growth by a local program, this does not guarantee or imply that the same accommodations will be appropriate or provided for the GED test.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:14.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, Adult Education Services, LR 31:3067 (December 2005), amended LR 34:605 (April 2008).

Chapter 5. Adult Education Core Measures

§501. NRS Core and Secondary Measures

A. - A.2.b. ...

3. participation measures of contact hours received and enrollment in instructional programs for special populations or topics (such as family literacy, corrections or workplace literacy).

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:14.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, Adult Education Services, LR 31:3067 (December 2005), amended LR 34:606 (April 2008).

§505. Student Goal Setting for Core Measures

A. Adult learners enter adult education programs for any number of reasons, which are reflective of the students' educational, vocational, and personal goals. The goal setting process occurs at intake and is intended to define the areas to focus instruction and learning. Student goals serve to provide a basis to measure student and program performance, and thus it is imperative that goals be both attainable and measurable.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:14.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, Adult Education Services, LR 31:3068 (December 2005), amended LR 34:606 (April 2008).

§507. Data Matching

A. - B. ...

C. Upon completion of the data-matching process, LDOL provides the Department of Education with a list of students who achieved the specified outcomes and these outcomes are reported back to local programs. The data matching process specifically tracks those students who set employment as a goal, but also matches all students in the database for the core measures. This process allows programs to know which students met their specified goal(s) and those who have achieved other outcomes while enrolled in the program. These outcomes are to be entered as an achievement in the approved adult education database, not as a goal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:14.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, Adult Education Services, LR 31:3068 (December 2005), amended LR 34:606 (April 2008).

Chapter 7. Data Reporting

§701. Data Accuracy and Entry

A. ...

Data	Entry Guidelines
Social Security Number or Identifying Number	<ol style="list-style-type: none"> 1. Enter the learner's real Social Security number. 2. Enter the alien identification number if ESL students do not have a Social Security number.
Contact Information	<ol style="list-style-type: none"> 1. Enter as many phone numbers that are available for the student (e.g., home, work, etc.). 2. Enter a complete mailing address including a number, street, apartment (if applicable), town and zip code. 3. Use the learner's parish of residence (not where the program is located).
Enrollment Status	<ol style="list-style-type: none"> 1. Enter the learner's status: enrolled, active, or left. <p>*A learner shall be separated and his/her status changed to left after nonattendance for 90 days according to NRS policies.</p>
Attendance	<ol style="list-style-type: none"> 1. Attendance must be recorded daily on sign-in sheets. It is recommended that attendance be entered on a weekly basis. <p>*Attendance hours are counted for instruction or instructional activities. Instructional activities include classroom instruction, assessment to inform instruction, tutoring or participation in a learning lab. Virtual, on-line or distance education attendance hours must be recorded following NRS guidelines.</p>
Test Scores	<ol style="list-style-type: none"> 1. Enter test results (pre-test or post-test) upon completion of approved assessment.

B. The Louisiana Department of Education requires that local programs submit a designation of distance learner for students enrolled in the adult education program, but participating in state-approved curricula and following a state-approved model for distance education.

1. The student must be designated as a distance education learner if the majority of the student's attendance hours are in distance education.

2. Students must have at least 12 contact hours with the program.

3. Pre-tests and post-tests are to be administered in person using the state assessment policy.

4. Programs will report all required NRS data elements on distance education students in the state approved data management system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:14.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, Adult Education Services, LR 31:3068 (December 2005), amended LR 34:606 (April 2008).

§703. Reporting

A. The Louisiana Department of Education, Division of Family, Career and Technical Education requires that local programs enter data at least monthly during a program year. City or parish supervisors or program directors are responsible for timely entry into the state approved adult

education data management system of local program data and ensuring its accuracy. Department of Education staff will review data for errors and contact supervisors or program directors to discuss needed corrections to local program data at least quarterly. Local program data, for the prior month should be entered by the tenth day of each month.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:14.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, Adult Education Services, LR 31:3068 (December 2005), amended LR 34:606 (April 2008).

§705. State Approved Adult Education Data Management System

A. The Louisiana Department of Education mandates that adult education programs, which it funds, must use the state approved Adult Education Data System. Local programs are responsible for covering the costs of implementing and maintaining the system with a portion of their local grant funds. Staff from the Louisiana Department of Education and staff from the state approved adult education data management system are committed to improving data quality by providing professional development workshops each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:14.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, Adult Education Services, LR 31:3069 (December 2005), amended LR 34:607 (April 2008).

§707. Resolving Data Analysis Problems and Deviations

A. Upon receipt of data submitted by local programs, the Louisiana Department of Education, Division of Family, Career and Technical Education staff review program data quarterly for errors. It is the responsibility of the local program supervisor or director to conduct the initial review of the data, using the diagnostic features of the state approved adult education data management system and other instructions provided by department staff.

B. Upon receipt of local program data, department staff shall run the diagnostic features of the state approved adult education data management system to search again for common and obvious data errors, such as invalid attendance dates, birthdates, and/or Social Security numbers. Staff further reviews data using other searches to determine if additional data analysis problems and deviations exist. Department staff shall send a report to local program supervisors or directors detailing any data analysis problems or deviations. It is the responsibility of local program supervisors and directors to correct any data analysis problems or deviations within two weeks of notification of such problems by department staff.

C. Data analysis problems or deviations must be corrected to accurately reflect student progress, evaluate program success and determine future funding. Local program supervisors or directors must sign the data extract each quarter upon acceptance of data by department staff. The signed program extract confirms that the local program supervisor or director states that the data is correct to the best of his/her knowledge, the local program has adhered to Department of Education data guidelines, and data has been reviewed for errors. The data reflected in the signed extract

is used to determine subsequent year funding and serves as the record of program performance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:14.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, Adult Education Services, LR 31:3069 (December 2005), amended LR 34:607 (April 2008).

Weegie Peabody
Executive Director

0804#002

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators
(LAC 28: CXV.501, 1117, 1307, 1309, and 2321)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted revisions to *Bulletin 741—Louisiana Handbook for School Administrators*: §501.Criminal Background Checks and Staff Misconduct, §1117.Child Welfare and Attendance, §1307.Reasons for Expulsions, §1309.Guidelines for Expulsions, and §2321.Carnegie Credit for Middle School Students. The revisions to these policies in *Bulletin 741—Louisiana Handbook for School Administrators* were made for the following reasons:

§501.F—The addition of this Paragraph is required by HB 969 (R.S. 14:81.4) from the 2007 legislative session.

§1117.F—The addition of this Paragraph is required by SB 169 (Children's Code Arts. 791.1 et seq.) from the 2004 legislative session.

§1307.A.2, §1309—The revisions to these Sections are required by SB 265 (R.S. 17:416) from the 2007 legislative session.

§2321—The revisions to this Section are needed to add Introduction to Business Computer Application to the list of high school courses that middle school students can take and to clarify language.

Title 28 EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 5. Personnel

§501. Criminal Background Checks and Staff Misconduct

A. - E.6.b. ...

F. Sexual conduct (including sexual intercourse and any lewd or lascivious behavior) between an educator (including any administrator, coach, instructor, paraprofessional, student aide, teacher, or teacher aide) and a student, who is under the age of 19 and who is a student at the school where the educator is assigned, employed, or working at the time of the offense, is prohibited.

1. Consent of the student or lack of knowledge of the student's age is not a defense.

2. Notwithstanding any claim of privileged communication, any educator having cause to believe that prohibited sexual contact between an educator and a student

has occurred or is occurring shall immediately report such conduct to a local or state law enforcement agency.

3. No cause of action shall exist against any person who in good faith makes a report, cooperates in any investigation arising as a result of such report, or participates in judicial proceedings arising out of such report, and such person shall have immunity from civil or criminal liability that otherwise might be incurred or imposed.

4. No immunity shall extend to any person who makes a report known to be false or with reckless disregard for the truth of the report, but in any action to establish damages against a defendant who made a false report, the plaintiff shall bear the burden of proving that the defendant who filed the false report knew that the report was false or that the report was filed with reckless disregard for the truth of the report.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:15; R.S. 17:587.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1265 (June 2005), amended LR 33:431 (March 2007), LR 34:607 (April 2008).

Chapter 11. Student Services

§1117. Child Welfare and Attendance

A. - E. ...

F. In those districts participating in an interagency agreement to operate a truancy and assessment service center and to the extent specified in said agreement, school boards and their systems in general will assist child welfare and attendance officers in creating student background data, including attendance records, unexcused absences, conduct violations, discipline records, report cards, and transcripts as permitted by law and families in need of services personnel will work in partnership with the child welfare and attendance officers to monitor client progress, file all petitions in the cases of noncompliance of the plan for court appearance, and coordinate other services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:232, R.S. 17:235.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1276 (June 2005), amended LR 34:608 (April 2008).

Chapter 13. Discipline

§1307. Reasons for Expulsions

A. Students may be expelled for any of the following reasons:

1. any student, after being suspended for committing any of the offenses listed in §1103, may be expelled upon recommendation by the principal of the public school in which the student is enrolled;

2. any student, after being suspended on three occasions for committing drugs or weapons offenses during the same school session, shall, on committing the fourth offense, be expelled from all the public schools of the parish or city school system wherein he or she resides until the beginning of the next regular school year, subject to the review and approval of the local educational governing authority;

3. - 4. ...

5. any student in grades six and up found guilty of being in possession of any illegal narcotic, drug, or other controlled substance on school property, on a school bus, or at a school event shall be expelled from school according to the requirements of R.S. 17:416(C)(2).

6. any student older than eleven and in grades six and up, carrying or possessing a knife the blade of which equals or exceeds two inches in length.

B. School officials shall have total discretion and shall exercise such discretion in imposing on a pupil any disciplinary actions authorized by this Section for possession by a student of a firearm or knife on school property when such firearm or knife is stored in a motor vehicle and there is no evidence of the student's intent to use the firearm or knife in a criminal manner.

C. Expulsion is not mandatory for a student carrying or possessing a firearm or knife for purposes of involvement in a school class or course or school approved cocurricular or extracurricular activity or any other activity approved by the appropriate school officials or for a student possessing any controlled dangerous substance governed by the Uniform Controlled Dangerous Substances Law that has been obtained directly or pursuant to a valid prescription or order from a licensed physician. However, such student shall carry evidence of that prescription or physician's order on his person at all times when in possession of any controlled dangerous substance which shall be subject to verification.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:416.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1284 (June 2005), amended LR 34:608 (April 2008).

§1309. Guidelines for Expulsions

A. ...

B. No student who has been expelled pursuant to the provisions of R.S. 17:416(C)(2) shall be readmitted to a public school in the city, parish, or other local school system in which he or she was expelled, prior to the completion of the specified period of expulsion, unless he or she has complied with the provisions of R.S. 17:416(C)(2) pertaining to appropriate rehabilitation and counseling related to the reason(s) for expulsion.

C. ...

D. Any student expelled from school pursuant to the provisions of R.S. 17:416 may be readmitted on a probationary basis to school at any time during the specified period of expulsion on such terms and conditions as may be stipulated by the city or parish city, parish, or other local school board and agreed to in writing by the student and by the student's parent or other person responsible for the student's school attendance. Such terms and conditions may include but need not be limited to placing the student in a suitable alternative education program as determined by the school board. However, any such written agreement shall include a provision that upon the school principal or superintendent of schools making a determination that the student has violated any term or condition agreed to, the student shall be immediately removed from the school premises without the benefit of any hearing or other procedure applicable to student suspensions and expulsions. As soon thereafter as possible, the principal or his designee shall provide verbal notice to the superintendent of schools of any such determination and also shall attempt to provide such verbal notice to the student's parent or other person responsible for the student's school attendance. The principal or his designee also shall provide written notice of the determination and the reasons therefore to the superintendent and to the student's parent or other responsible person.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:416.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1284 (June 2005), amended LR 34:608 (April 2008).

Chapter 23. Curriculum and Instruction

§2321. Carnegie Credit for Middle School Students

A. Students in the middle grades are eligible to receive Carnegie credit for courses in the high school program of studies in mathematics, science, English, social studies, foreign language, keyboarding/keyboarding applications, Introduction to Business Computer Applications, or computer/technology literacy.

B. - D. ...

E. Students who are repeating the eighth grade because they have scored unsatisfactory on the mathematics and/or English language arts components of LEAP shall not take or receive Carnegie credit for any high school courses in a content area in which they scored unsatisfactory on the eighth grade LEAP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1293 (June 2005), amended LR 33:430 (March 2007), LR 34:609 (April 2008).

Weegie Peabody
Executive Director

0804#003

RULE

Board of Elementary and Secondary Education

Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators—Programs of Study Instructional Staff (LAC 28:LXXIX.303)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted revisions to *Nonpublic Bulletin 741—Louisiana Handbook for Nonpublic School Administrators: §303.Instructional Staff*. The revision will accomplish the following.

1. Allow teachers with master's degrees and 10 or more years of experience teaching at the college level or in a K-12 school to forego the required 12 college hours of Knowledge of the Learner and the Learning Environment classes. The teachers must meet all other requirements.

2. Remove the stipulation that only secondary teachers could teach in areas other than their major field for less than half the school day. The teachers must have earned at least 12 semester hours in the content area.

These revisions were requested by Nonpublic School Commission to facilitate obtaining experienced and qualified teachers.

Title 28

EDUCATION

Part LXXIX. Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators—Programs of Study

Chapter 3. Certification of Personnel

§303. Instructional Staff

A. - A.3.a. ...

B. A teacher may teach in areas other than the major field for a period of time that is less than one-half of the school day provided that he has earned at least 12 semester hours in each such area. (Exception may be made for teachers in trade and industrial education classes.) These teachers must hold a degree from a regionally accredited institution and have earned 12 semester hours of professional education courses.

1. A graduate of a foreign university or college, notwithstanding his/her major in college, may teach a foreign language if that language is his/her native tongue. The teacher must also earn 12 semester hours of professional education courses within a three year period.

C. - I.1. ...

J. A teacher may be considered qualified without having the 12 hours of Knowledge of the Learner and the Learning Environment courses provided the following stipulations have been met:

1. the teacher has documented experience at one of the following levels:

a. ten years teaching experience at the collegiate level as an assistant professor, associate professor, or full professor; or

b. ten years teaching experience in an approved elementary, middle, or secondary school; and,

2. the teacher has the content knowledge qualifications required in §303A.2.b or §303.B; or,

3. the teacher has a master's degree in the teaching area; and,

4. the teacher has taught for a probationary period of at least one year with a satisfactory evaluation at the school seeking employment of the teacher.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2344 (November 2003), amended LR 31:3075 (December 2005), LR 32:1417 (August 2006), LR 32:2237 (December 2006), LR 34:229 (February 2008), LR 34:609 (April 2008).

Weegie Peabody
Executive Director

0804#004

RULE

Board of Elementary and Secondary Education

Bulletin 1929—Louisiana Accounting and Uniform Governmental Handbook—Supplies vs. Equipment (LAC 28:XLI.1107)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted revisions to *Bulletin 1929—Louisiana Accounting and Uniform Governmental Handbook*: §1107. Definition—Supplies vs. Equipment. This action establishes a higher capitalization threshold for local school districts. The higher capitalization threshold will aid the districts in management of their assets that must be inventoried while minimally impacting the dollar value of those assets tracked. The capitalization threshold will be increased from \$1,000 per item to \$5,000 per item. The new threshold is consistent with GFOA recommendations for capitalization threshold as well as federal requirements in EDGAR.

**Title 28
EDUCATION**

Part XLI. Bulletin 1929—Louisiana Accounting and Uniform Governmental Handbook

**Chapter 11. Assets, Liability, and Equity
§1107. Definition—Supplies vs. Equipment**

A. An LEA can take two basic approaches to distinguish between supplies and equipment in the decision making situations: adopt a predetermined list of items, classifying each entry as either a supply or an item of equipment, or adopt a set of criteria to be used in making its own classification of supply and equipment items.

1. List of Items—At one time, the Federal Accounting Handbook contained lists of both supplies and equipment. Such lists can never be comprehensive or exhaustive, and quickly become outdated.

2. Set of Criteria—An item must be considered a supply if it does not meet all the stated equipment criteria listed below.

- a. It can be expected to serve its principal purpose for at least one year.
- b. It is nonexpendable; that is, if damaged or worn out, it can be repaired without being replaced.
- c. It does not lose its identity through fabrication or incorporation into a different or more complex unit.
- d. It is equal to or greater than \$5,000 per unit cost in value.

NOTE: The unit cost of \$5,000 does not apply to any program funded with 8g monies.

3. Food and computer software must always be considered supplies.

4. School districts maintain rigorous accountability for their property whether it is capitalized or not. For accountability and internal control purposes, many items of property that do not meet the districts' capitalization threshold must be inventoried. Thus, the Department of Education recommends maintaining inventory and tracking items that do not meet the equipment criteria if needed for insurance purposes and/or the item has "street value." For instance, districts might inventory DVDs and computers for internal control purposes but not capitalize them due to their low cost.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17(2)(e).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:610 (April 2008).

Weegie Peabody
Executive Director

0804#005

RULE

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

Bylaws of the Advisory Committee to the Student Financial Assistance Commission (LAC 28:V. 203, 215, 221, 223, 241, 245, and 247)

The Louisiana Student Financial Assistance Commission (LASFAC) has amended its bylaws (R.S. 17:3021-3025 and R.S. 17:3048.1).

The rulemaking changes the composition of the membership of the committee and the method of selection of the members. (AC0892R)

**Title 28
EDUCATION**

Part V. Student Financial Assistance—Higher Education Loan Program

Chapter 2. Bylaws of the Advisory Committee to the Student Financial Assistance Commission

Subchapter A. Purpose and Authority

§203. Authority of the Committee

A. The advice and recommendations of the committee are only advisory in nature and are not binding upon the commission, its members or officers.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:435 (March 1998), amended LR 34:610 (April 2008).

Subchapter B. Meetings

§215. Compensation

A. Members of the committee shall be reimbursed for their travel expenses incurred in attending meetings, in accordance with applicable state travel regulations if their respective school does not reimburse them for their expenses. No other compensation is authorized. Members may decline reimbursement for expenses.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:435 (March 1998), amended LR 34:610 (April 2008).

Subchapter C. Membership and Officers of the Committee

§221. Membership

A.1. The committee shall be composed of eight voting members, who shall be the financial aid director or his/her designee representing the Louisiana State University System, the Southern University System, the University of Louisiana System, the Louisiana Community and Technical College System, the Professional Schools, the Louisiana Association of Independent Colleges and Universities, and

proprietary schools selected by the Louisiana Career College Association; and a student member.

2. The executive director of the LOSFA shall be an ex officio, nonvoting member of the committee.

3. The president or his/her designee of the Louisiana Student Financial Aid Administrators shall be a nonvoting member of the committee.

B. Rotation of Members. Voting members shall rotate according to the following schedule.

1. Louisiana State University System
 - a. University of New Orleans
 - b. Louisiana State University at Alexandria
 - c. Louisiana State University at Shreveport
 - d. Louisiana State University at Eunice
 - e. Louisiana State University at Baton Rouge
2. Southern University System
 - a. Southern University at Baton Rouge. The initial term shall be for one year.
 - b. Southern University at New Orleans
 - c. Southern University at Shreveport
3. University of Louisiana System
 - a. University of Louisiana at Monroe. The initial term shall be for one year.
 - b. Louisiana Tech University
 - c. McNeese State University
 - d. Nicholls State University
 - e. Northwestern State University
 - f. Southeastern State University
 - g. University of Louisiana at Lafayette
 - h. Grambling State University
4. Louisiana Community and Technical College System
 - a. Delgado Community College. The initial term shall be for one year.
 - b. Baton Rouge Community College
 - c. Bossier Parish Community College
 - d. Delta Community College
 - e. L.E. Fletcher Community and Technical College
 - f. River Parishes Community College
 - g. South Louisiana Community College
 - h. SOWELA Technical Community College
 - i. Louisiana Technical College
5. Professional Schools
 - a. Louisiana State University Health Sciences Center at New Orleans
 - b. Louisiana State University Health Sciences Center at Shreveport
 - c. Southern University Law Center
 - d. Tulane Medical and Law School
6. Louisiana Association of Independent Colleges and Universities
 - a. Centenary College
 - b. Dillard University
 - c. Louisiana College
 - d. Loyola University
 - e. New Orleans Baptist Theological Seminary
 - f. Our Lady of Holy Cross College
 - g. Our Lady of the Lake College
 - h. St. Joseph Seminary College
 - i. Tulane University
 - j. Xavier University
7. Proprietary Schools

a. The Louisiana Career College Association shall rotate membership among the proprietary schools.

b. The rotation will ensure that all schools are offered membership before the rotation repeats.

8. Student

a. A student member shall be selected by the financial aid officer who is a member of the Advisory Committee beginning with the member from the Louisiana State University System and rotating in the order of members listed above.

b. Student members shall serve one year terms and may not serve two consecutive terms.

c. The student selected should be an employee of the financial aid office, have financial aid experience or otherwise have an interest in financial aid.

C. Term

1. The term of voting members shall be for two years except as indicated in §221.B above. Members may not serve two consecutive terms, except as indicated in §221.E.2 below.

2. Terms shall be staggered.

3. Terms shall begin on October 1 of each year.

D. Notification of Membership

1. Except for the 2007-2008 academic year, LOSFA shall send a notice to the financial aid directors of the schools who are eligible to be members of the advisory committee no later than September 1 of each year. In the notice, LOSFA shall request confirmation of that financial aid director's willingness to serve as a member and the name of the financial aid director's designee, if there is one.

2. The financial aid director must submit the confirmation of membership by September 30 of that same year.

E. Replacements

1. If a financial aid director declines to participate or does not submit a timely confirmation, the next school in the rotation shall be eligible for membership and LOSFA shall so notify the appropriate financial aid director.

2. If a financial aid director is unable to complete his/her term for any reason, the financial aid director from the next school in the rotation shall be eligible for membership and LOSFA shall so notify the appropriate financial aid director. The replacement member shall complete the rest of the term and shall be eligible for membership for the next two year term.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:435 (March 1998), amended LR 33:1339 (July 2007), LR 34:610 (April 2008).

§223. Chairman and Vice-Chairman

A. The committee chairman and vice chairman shall be selected annually by vote of the members of the advisory committee, from among the members of the committee. The chairman of the committee shall preside over all meetings of the committee, serve as ex officio member of all subcommittees, designate the duties of the vice-chairman, appoint the membership of all subcommittees, and present the committee's recommendations to the commission for its consideration. The vice-chairman shall perform the duties of the chairman in the chairman's absence.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:435 (March 1998), amended LR 34:611 (April 2008).

Subchapter D. Business Rules

§241. Meeting Attendance

A. Members unable to continue their service on the committee shall so notify the chairman and request that a replacement be named in accordance with §221 of these bylaws. Members who fail to regularly attend meetings without just cause, may be removed from membership in accordance with §221 of these bylaws.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:436 (March 1998), amended LR 34:612 (April 2008).

Subchapter E. Approval and Amendment of Bylaws

§245. Approval of Bylaws

A. To receive the commission's consideration, committee bylaws must be favorably recommended by the committee and the executive director of LOSFA. Bylaws become effective upon approval by the commission and publication as a final rule in accordance with the Louisiana Administrative Procedure Act.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:436 (March 1998), amended LR 34:612 (April 2008).

§247. Amendments to Bylaws

A. The committee, at any of its scheduled regular meetings, may recommend the amendment or repeal of the provisions herein upon a simple majority vote of the entire membership of the committee. Amendment or repeal of the bylaws becomes effective upon approval by the commission and publication as an emergency rule and/or a final rule in accordance with the Louisiana Administrative Procedure Act.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:436 (March 1998), amended LR 34:612 (April 2008).

George Badge Eldredge
General Counsel

0804#030

RULE

Department of Environmental Quality Office of the Secretary

Solid Waste Exemptions, Containers, and Buffer Zones
(LAC 33:VII.301, 503, 508, 709, 717, and 719)(SW046)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Solid Waste regulations, LAC 33:VII.301, 503, 508, 709, 717, and 719 (Log #SW046).

This Rule clarifies that a container storing solid waste shall prevent leakage into or out of the container. The Rule establishes a 50-foot buffer zone requirement for non-processing transfer stations transferring nonputrescible solid waste, such as construction and/or demolition waste. It also clarifies that all adjoining landowners must sign an affidavit allowing a reduction in a facility's buffer zone requirement. The Rule adds two exemptions from the definition of solid waste that have been present in the Environmental Quality Act for quite some time, but never appeared in the regulations. The exemptions regard automotive fluff and uncontaminated scrap metal materials. This Rule is necessary to clarify language regarding container storage of solid waste and requests for reductions in buffer zones for solid waste management facilities, and to make the buffer zone requirements consistent for facilities handling the same waste stream. Allowing non-processing transfer stations transferring nonputrescible solid waste to have smaller buffer zones will make the requirements for those facilities consistent with other solid waste management facilities handling nonputrescible waste that currently have smaller buffer zones. Adding the exemption language from the Act will make the regulations consistent with the law. The basis and rationale for this Rule are to clarify and provide consistency in the solid waste regulations. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33

ENVIRONMENTAL QUALITY

Part VII. Solid Waste

Subpart 1. Solid Waste Regulations

Chapter 3. Scope and Mandatory Provisions of the Program

§301. Exempted Waste

A. - A.2.d.iv. ...

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

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

g. uncontaminated scrap metal materials that are purchased for resale to be recycled or reused and are not destined for disposal; and

h. automotive fluff that results from the shredding of automobiles by a scrap metal recycling facility authorized under the laws of the state of Louisiana and from which metals have been recovered to the maximum extent practicable by the scrap metal recycling facility.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 22:279 (April 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2515 (November 2000), LR 28:780 (April 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2485 (October 2005), LR 33:1027 (June 2007), LR 33:2140 (October 2007), LR 33:2364 (November 2007), LR 34:612 (April 2008).

Chapter 5. Solid Waste Management System
Subchapter A. General Standards for Nonpermitted Facilities

[Formerly Chapter 7.Subchapter A]

§503. Standards Governing Solid Waste Accumulation and Storage
[Formerly §703]

A. Solid Waste Accumulation

1. ...
2. Containers used for solid waste shall:
 - a. prevent access by rodents and insects;
 - b. minimize the escape of odors to the maximum extent possible; and
 - c. keep out water and prevent leakage.

A.3. - C.2. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1033 (June 2007), LR 34:613 (April 2008).

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

A. - A.4. ...

B. New facilities in which construction has commenced after June 20, 2007, shall comply with a buffer zone requirement of not less than 200 feet between the facility and the property line. Facilities transferring only nonputrescible waste shall comply with a buffer zone requirement of not less than 50 feet between the facility and the property line. A reduction in the buffer zone requirement shall be allowed only with the permission, in the form of a notarized affidavit, of all adjoining landowners. A copy of the notarized affidavit waiving the 200-foot or 50-foot buffer zone requirement shall be entered in the mortgage and conveyance records of the parish or parishes in which the adjoining landowners' properties are located. The affidavit shall be maintained with the records of the facility. No storage of solid waste shall occur within a facility's buffer zone.

C. - M. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1034 (June 2007), amended LR 33:2142 (October 2007), LR 34:613 (April 2008).

Chapter 7. Solid Waste Standards
Subchapter A. Landfills, Surface Impoundments, Landfarms

§709. Standards Governing Type I and II Solid Waste Disposal Facilities
[Formerly some of the provisions in Subsections A and B existed in §521.]

A. - B.2.d. ...

3. Buffer Zones

- a. Buffer zones of not less than 200 feet shall be provided between the facility and the property line. A reduction in this requirement shall be allowed only with the permission, in the form of a notarized affidavit, of all adjoining landowners. A copy of the notarized affidavit waiving the buffer zone requirement shall be entered in the

mortgage and conveyance records of the parish or parishes for the adjoining landowners' properties. Buffer zone requirements may be waived or modified by the administrative authority for areas of landfills that have been closed in accordance with these regulations and for existing facilities.

B.3.b. - E. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), repromulgated LR 19:1315 (October 1993), amended by the Office of the Secretary, LR 24:2250 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2521 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2490 (October 2005), LR 33:1045 (June 2007), LR 34:613 (April 2008).

Subchapter B. Solid Waste Processors
§717. Standards Governing All Type I-A and II-A Solid Waste Processors

A. - B.2.d. ...

3. Buffer Zones

- a. Buffer zones of not less than 200 feet shall be provided between the facility and the property line. A reduction in this requirement shall be allowed only with the permission, in the form of a notarized affidavit, of all adjoining landowners. A copy of the notarized affidavit waiving the buffer zone requirement shall be entered in the mortgage and conveyance records of the parish or parishes for the adjoining landowners' properties. Buffer zone requirements may be waived or modified by the administrative authority for areas of processing facilities that have been closed in accordance with these regulations and for existing facilities.

B.3.b. - I.3. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, LR 24:2252 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2526, 2610 (November 2000), repromulgated LR 27:704 (May 2001), amended by the Office of Environmental Assessment, LR 30:2025 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2494 (October 2005), LR 33:1061 (June 2007), LR 33:2148 (October 2007), LR 34:613 (April 2008).

Subchapter C. Minor Processing and Disposal Facilities
§719. Standards Governing All Type III Processing and Disposal Facilities

[Formerly some of the provisions in Subsections A, B, and E existed in §521.]

A. - B.2.d. ...

3. Buffer Zones

- a. Buffer zones of not less than 50 feet shall be provided between the facility and the property line. A reduction in this requirement shall be allowed only with the permission, in the form of a notarized affidavit, of all adjoining landowners. A copy of the notarized affidavit waiving the buffer zone requirement shall be entered in the mortgage and conveyance records of the parish or parishes for the adjoining landowners' properties. Buffer zone

requirements may be waived or modified by the administrative authority for areas of woodwaste/construction/demolition-debris landfills that have been closed in accordance with these regulations and for existing facilities. Notwithstanding this Paragraph, Type III air curtain destructors and composting facilities that receive putrescible, residential, or commercial waste shall meet the buffer zone requirements in LAC 33:VII.717.B.3. In addition, air curtain destructors shall maintain at least a 1,000-foot buffer from any dwelling other than a dwelling or structure located on the property on which the burning is conducted (unless the appropriate notarized affidavit waivers are obtained).

B.3.b. - E.2. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2527 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2495 (October 2005), LR 33:1065 (June 2007), LR 33:2149 (October 2007), LR 34:613 (April 2008).

Herman Robinson, CPM
Executive Counsel

0804#023

RULE

Department of Environmental Quality Office of the Secretary Legal Affairs Division

RCRA XVI Authorization Package (LAC 33:V.105, 109, 199, 303, 305, 311, 321, 322, 513, 529, 530, 535, 536, 537, 1107, 1109, 1113, 1501, 1516, 1529, 1799, 1802, 1907, 2001, 2299, 2603, 2805, 2903, 3001, 3005, 3007, 3105, 3115, 3315, 3319, 3517, 3523, 3719, 4001, 4003, 4005, 4045, 4067, 4301, 4357, 4367, 4379, 4381, 4401, 4439, 4457, 4497, 4507, 4512, 4513, 4701, 4703, 4901, 4903, 4909, 4911, 4913, and 4915)(HW095ft)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Hazardous Waste regulations, LAC 33:V.105, 109, 199, 303, 305, 311, 321, 322, 513, 529, 530, 535, 536, 537, 1107, 1109, 1113, 1501, 1516, 1529, 1799, 1802, 1907, 2001, 2299, 2603, 2805, 2903, 3001, 3005, 3007, 3105, 3115, 3315, 3319, 3517, 3523, 3719, 4001, 4003, 4005, 4045, 4067, 4301, 4357, 4367, 4379, 4381, 4401, 4439, 4457, 4497, 4507, 4512, 4513, 4701, 4703, 4901, 4903, 4909, 4911, 4913, and 4915 (Log #HW095ft).

This Rule is identical to federal regulations found in 40 CFR 260.10, 260.40, 260.41, 261.3, 261.4, 261.21, 261.31, 261.33, 261.38, 261.39, 261.40, 261.41, 261 App. VII and VIII, 262.20, 262.33, 262.53, 262.56, 262.58, 262 Appendix, 264.1, 264.18, 264.72, 264.97, 264.99, 264.116, 264.118, 264.151, 264.193, 264.221, 264.340, 264.552, 264.573, 264.1101, 264 App. I, 265.1, 265.72, 265.90, 265.111,

265.112, 265.140, 265.142, 265.194, 265.228, 265.301, 265.302, 265.314, 265.340, 265.443, 265.1100, 265.1101, 265 App. I, V, and VI, 266.100, 266.102, 266.103, 266 Subpart N, 268.40, 268.48, 270.1, 270.10, 270.11, 270.19, 270.22, 270.24, 270.25, 270.32, 270.42, 270.62, 270.66, 270.235, 270 App. I, 279.1, 279.10, 279.11, 279.52, and 279.63, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3550 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the Rule. This Rule will be promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

This Rule contains specific amendments required by EPA for the state to request further authorization for the hazardous waste program. The amendments, made in the *Federal Register* and incorporated into the CFR, affect the following issues: manifest rule correction (70 FR 35034-35041, June 16, 2005), headworks exemption (70 FR 57769-57785, October 4, 2005), hazardous waste combustors regarding Phase I final replacement standards (70 FR 59402-59579, October 12, 2005), CFR corrections rule (71 FR 40254-40280, July 14, 2006), and cathode ray tube (CRT) exclusion (71 FR 42928-42949, July 28, 2006). The structure of LAC 33:V.199 has been changed to include an additional appendix. This Rule is required for the state to continue its authorization process for the hazardous waste program. The basis and rationale for this Rule are to maintain equivalency with the federal regulations for the hazardous waste program. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

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 the 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. Wastes that are excluded from regulation are found in this Section.

A. - D.1.u.iii.(e). ...

(f). all laboratory analytical results used to determine compliance with the contaminant limits specified in this Subparagraph;

v. used cathode ray tubes (CRTs) meeting the following requirements:

i. *used, intact CRTs* as defined in LAC 33:V.109. *Cathode Ray Tube or CRT*, unless they are disposed, or unless they are *accumulated speculatively* as defined in LAC 33:V.109 by CRT collectors or glass processors;

ii. used, intact CRTs that are exported for recycling provided that they meet the requirements of LAC 33:V.4913;

iii. *used, broken CRTs* as defined in LAC 33:V.109.*Cathode Ray Tube or CRT* that meet the requirements of LAC 33:V.4911;

iv. glass removed from CRTs, provided that it meets the requirements of LAC 33:V.4911.

D.2. - K.2.b. ...

L. Additional Regulation of Certain Hazardous Waste Recycling Activities on a Case-by-Case Basis

1. Additional Regulation of Certain Hazardous Waste Recycling Activities on a Case-by-Case Basis. The administrative authority may decide on a case-by-case basis that persons accumulating or storing the recyclable materials described in LAC 33:V.4143 should be regulated under LAC 33:V.4105.B and C. The basis for this decision is that the materials are being accumulated or stored in a manner that does not protect human health and the environment because the materials or their toxic constituents have not been adequately contained, or because the materials being accumulated or stored together are incompatible. In making this decision, the administrative authority will consider the following factors:

a. - e. ...

2. Procedures for Case-by-Case Regulation of Hazardous Waste Recycling Activities. The administrative authority will use the following procedures when determining whether to regulate hazardous waste recycling activities described in LAC 33:V.4143 under the provisions of LAC 33:V.4105.B and C, rather than under the provisions of LAC 33:V.4143:

L.2.a. - P.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq., and in particular, 2186(A)(2).

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, LR 16:220 (March 1990), LR 16:398 (May 1990), LR 16:614 (July 1990), LR 17:362, 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, 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, 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 24:298 (February 1998), LR 24:655 (April 1998), LR 24:1093 (June 1998), LR 24:1687, 1759 (September 1998), LR 25:431 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:268 (February 2000), LR 26:2464 (November 2000), LR 27:291 (March 2001), LR 27:706 (May 2001), LR 29:317 (March 2003), LR 30:1680 (August 2004), amended by the Office of Environmental Assessment, LR 30:2463 (November 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2451 (October 2005), LR 32:605 (April 2006), LR 32:821 (May

2006), LR 33:450 (March 2007), LR 33:2097 (October 2007), LR 34:614 (April 2008).

§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.

* * *

Cathode Ray Tube or CRT—a vacuum tube, composed primarily of glass, that is the visual or video display component of an electronic device. A *used, intact CRT* means a CRT whose vacuum has not been released. A *used, broken CRT* means a CRT that has had the glass removed from its housing or casing and whose vacuum has been released.

* * *

CRT Collector—a person who receives used, intact CRTs for recycling, repair, resale, or donation.

CRT Glass Manufacturer—an operation or part of an operation that uses a furnace to manufacture CRT glass.

CRT Glass Manufacturing Facility—repealed.

CRT Processing—conducting any of the following activities:

1. receiving broken or intact CRTs;
2. intentionally breaking intact CRTs or further breaking or separating broken CRTs; or
3. sorting or otherwise managing glass removed from CRTs.
4. repealed.

* * *

Hazardous Waste—a *solid waste*, as defined in this Section, is a hazardous waste if:

1. - 2.b. ...

c. it is a mixture of solid waste and one or more hazardous wastes listed in LAC 33:V.4901 and has not been excluded from Paragraph 2 or Subparagraphs 4.e and f of this definition under LAC 33:V.105.D and M; however, the following mixtures of solid wastes and hazardous wastes listed in LAC 33:V.4901 are not hazardous wastes (except by application of Subparagraph 2.a or b of this definition) if the generator can demonstrate that the mixture consists of wastewater, the discharge of which is subject to regulation under either Section 402 or Section 307(b) of the Clean Water Act (including wastewater at facilities that have eliminated the discharge of wastewater), and:

i. one or more of the following spent solvents listed in LAC 33:V.4901.B—benzene, carbon tetrachloride, tetrachloroethylene, trichloroethylene, or scrubber waters derived from the combustion of these spent solvents—provided that the maximum total weekly usage of these solvents (other than the amounts that can be demonstrated not to be discharged to wastewater) divided by the average weekly flow of wastewater into the headworks of the facility's wastewater treatment or pretreatment system does not exceed 1 part per million, or the total measured concentration of these solvents entering the headworks of the facility's wastewater treatment system (at facilities subject to regulation under the Clean Air Act as amended, at 40 CFR Part 60, 61, or 63, as incorporated by reference at LAC 33:III.3003, 5116, and 5122, respectively, or at facilities subject to an enforceable limit in a federal operating permit that minimizes fugitive emissions) does not exceed 1 part per million on an average weekly basis. Any

facility that uses benzene as a solvent and claims this exemption must use an aerated biological wastewater treatment system and must use only lined surface impoundments or tanks prior to secondary clarification in the wastewater treatment system. Facilities that choose to measure concentration levels must file a copy of their sampling and analysis plan with the administrative authority. A facility must file a copy of a revised sampling and analysis plan only if the initial plan is rendered inaccurate by changes in the facility's operations. The sampling and analysis plan must include the monitoring point location (headworks), the sampling frequency and methodology, and a list of constituents to be monitored. A facility is eligible for the direct monitoring option once it receives confirmation that the sampling and analysis plan has been received by the administrative authority. The administrative authority may reject the sampling and analysis plan if it finds that the sampling and analysis plan fails to include the above information, or the plan parameters would not enable the facility to calculate the weekly average concentration of these chemicals accurately. If the administrative authority rejects the sampling and analysis plan or if the administrative authority finds that the facility is not following the sampling and analysis plan, the administrative authority shall notify the facility to cease the use of the direct monitoring option until such time as the bases for rejection are corrected; or

ii. one or more of the following spent solvents listed in LAC 33:V.4901.B—methylene chloride, 1,1,1-trichloroethane, chlorobenzene, o-dichlorobenzene, cresols, cresylic acid, nitrobenzene, toluene, methyl ethyl ketone, carbon disulfide, isobutanol, pyridine, spent chlorofluorocarbon solvents, 2-ethoxyethanol, or the scrubber waters derived from the combustion of these spent solvents—provided that the maximum total weekly usage of these solvents (other than the amounts that can be demonstrated not to be discharged to wastewater) divided by the average weekly flow of wastewater into the headworks of the facility's wastewater treatment or pretreatment system does not exceed 25 parts per million, or the total measured concentration of these solvents entering the headworks of the facility's wastewater treatment system (at facilities subject to regulation under the Clean Air Act as amended, at 40 CFR Part 60, 61, or 63, as incorporated by reference at LAC 33:III.3003, 5116, and 5122, respectively, or at facilities subject to an enforceable limit in a federal operating permit that minimizes fugitive emissions) does not exceed 25 parts per million on an average weekly basis. Facilities that choose to measure concentration levels must file a copy of their sampling and analysis plan with the administrative authority. A facility must file a copy of a revised sampling and analysis plan only if the initial plan is rendered inaccurate by changes in the facility's operations. The sampling and analysis plan must include the monitoring point location (headworks), the sampling frequency and methodology, and a list of constituents to be monitored. A facility is eligible for the direct monitoring option once it receives confirmation that the sampling and analysis plan has been received by the administrative authority. The administrative authority may reject the sampling and analysis plan if it finds that the sampling and analysis plan fails to include the above information, or the plan parameters

would not enable the facility to calculate the weekly average concentration of these chemicals accurately. If the administrative authority rejects the sampling and analysis plan or if the administrative authority finds that the facility is not following the sampling and analysis plan, the administrative authority shall notify the facility to cease the use of the direct monitoring option until such time as the bases for rejection are corrected; or

iii. ...

iv. a discarded hazardous waste, commercial chemical product, or chemical intermediate listed in LAC 33:V.4901.A, B.1-2, and C-F arising from de minimis losses of these materials. For purposes of this Clause, de minimis losses are inadvertent releases to a wastewater treatment system, including those from normal material handling operations (e.g., spills from the unloading or transfer of materials from bins or other containers, leaks from pipes, valves, or other devices used to transfer materials); minor leaks of process equipment, storage tanks, or containers; leaks from well-maintained pump packings and seals; sample purgings; relief device discharges; discharges from safety showers and rinsing and cleaning of personal safety equipment; and rinsate from empty containers or from containers rendered empty by that rinsing. Any manufacturing facility that claims an exemption for de minimis quantities of wastes listed in LAC 33:V.4901.B and C, or any nonmanufacturing facility that claims an exemption for de minimis quantities of wastes listed in LAC 33:V.4901.C, must either have eliminated the discharge of wastewaters or have included in its Clean Water Act permit application or submission to its pretreatment control authority the constituents for which each waste was listed in LAC 33:V.4901.G and the constituents in LAC 33:V.2299.Table 2, Treatment Standards for Hazardous Wastes, for which each waste has a treatment standard (i.e., Land Disposal Restriction constituents). A facility is eligible to claim the exemption once the administrative authority has been notified of possible de minimis releases via the Clean Water Act permit application or the pretreatment control authority submission. A copy of the Clean Water Act permit application or the submission to the pretreatment control authority must be placed in the facility's on-site files; or

v. ...

vi. one or more of the following wastes listed in LAC 33:V.4901.C—wastewaters from the production of carbamates and carbamoyl oximes (EPA Hazardous Waste Number K157)—provided that the maximum weekly usage of formaldehyde, methyl chloride, methylene chloride, and triethylamine (including all amounts that cannot be demonstrated to be reacted in the process, destroyed through treatment, or recovered, i.e., what is discharged or volatilized) divided by the average weekly flow of process wastewater prior to any dilution into the headworks of the facility's wastewater treatment system does not exceed a total of 5 parts per million by weight, or the total measured concentration of these chemicals entering the headworks of the facility's wastewater treatment system (at facilities subject to regulation under the Clean Air Act as amended, at 40 CFR Part 60, 61, or 63, as incorporated by reference at LAC 33:III.3003, 5116, and 5122, respectively, or at facilities subject to an enforceable limit in a federal operating permit that minimizes fugitive emissions) does not

exceed 5 parts per million on an average weekly basis. Facilities that choose to measure concentration levels must file a copy of their sampling and analysis plan with the administrative authority. A facility must file a copy of a revised sampling and analysis plan only if the initial plan is rendered inaccurate by changes in the facility's operations. The sampling and analysis plan must include the monitoring point location (headworks), the sampling frequency and methodology, and a list of constituents to be monitored. A facility is eligible for the direct monitoring option once it receives confirmation that the sampling and analysis plan has been received by the administrative authority. The administrative authority may reject the sampling and analysis plan if it finds that the sampling and analysis plan fails to include the above information, or the plan parameters would not enable the facility to calculate the weekly average concentration of these chemicals accurately. If the administrative authority rejects the sampling and analysis plan or if the administrative authority finds that the facility is not following the sampling and analysis plan, the administrative authority shall notify the facility to cease the use of the direct monitoring option until such time as the bases for rejection are corrected; or

vii. wastewaters derived from the treatment of one or more of the following wastes listed in LAC 33:V.4901.C—organic waste (including heavy ends, still bottoms, light ends, spent solvents, filtrates, and decantates) from the production of carbamates and carbamoyl oximes (EPA Hazardous Waste Number K156)—provided that the maximum concentration of formaldehyde, methyl chloride, methylene chloride, and triethylamine prior to any dilutions into the headworks of the facility's wastewater treatment system does not exceed a total of 5 milligrams per liter, or the total measured concentration of these chemicals entering the headworks of the facility's wastewater treatment system (at facilities subject to regulation under the Clean Air Act as amended, at 40 CFR Part 60, 61, or 63, as incorporated by reference at LAC 33:III.3003, 5116, and 5122, respectively, or at facilities subject to an enforceable limit in a federal operating permit that minimizes fugitive emissions) does not exceed 5 milligrams per liter on an average weekly basis. Facilities that choose to measure concentration levels must file a copy of their sampling and analysis plan with the administrative authority. A facility must file a copy of a revised sampling and analysis plan only if the initial plan is rendered inaccurate by changes in the facility's operations. The sampling and analysis plan must include the monitoring point location (headworks), the sampling frequency and methodology, and a list of constituents to be monitored. A facility is eligible for the direct monitoring option once it receives confirmation that the sampling and analysis plan has been received by the administrative authority. The administrative authority may reject the sampling and analysis plan if it finds that the sampling and analysis plan fails to include the above information, or the plan parameters would not enable the facility to calculate the weekly average concentration of these chemicals accurately. If the administrative authority rejects the sampling and analysis plan or if the administrative authority finds that the facility is not following the sampling and analysis plan, the administrative authority shall notify the facility to cease the

use of the direct monitoring option until such time as the bases for rejection are corrected; and

2.d. - 6.b. ...

* * *

Holocene—the most recent epoch of the quaternary period, extending from the end of the Pleistocene to the present.

* * *

Incompatible Waste—a hazardous waste that is unsuitable for placement in a particular device or facility because it may cause corrosion or decay of containment materials (e.g., container inner liners or tank walls), or that is unsuitable for commingling with another waste or material under uncontrolled conditions because the commingling might produce heat or pressure; fire or explosion; violent reaction; toxic dusts, mists, fumes, or gases; or flammable fumes or gases. For examples of potentially incompatible wastes, see LAC 33:V.199.Appendix 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 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, 791 (November 1988), LR 15:378 (May 1989), LR 15:737 (September 1989), LR 16:218, 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 by the Office of Solid and Hazardous Waste, Hazardous Waste Division, 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), LR 24:1101 (June 1998), LR 24:1688 (September 1998), LR 25:433 (March 1999), repromulgated LR 25:853 (May 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:269 (February 2000), LR 26:2465 (November 2000), LR 27:291 (March 2001), LR 27:708 (May 2001), LR 28:999 (May 2002), LR 28:1191 (June 2002), LR 29:318 (March 2003); amended by the Office of the Secretary, Legal Affairs Division, LR 31:2452 (October 2005), LR 31:3116 (December 2005), LR 32:606 (April 2006), LR 32:822 (May 2006), LR 33:1625 (August 2007), LR 33:2098 (October 2007), LR 34:71 (January 2008), LR 34:615 (April 2008).

§199. Appendices—Appendices A and B

A. Appendix A—Equations for the Development of Soil and Groundwater Standards

* * *

[See prior text in Appendix A]

B. Appendix B—Examples of Potentially Incompatible Waste¹

1. Many hazardous wastes, when mixed with other waste or materials at a hazardous waste facility, can produce effects that are harmful to human health and the environment, such as:

- a. heat or pressure;
- b. fire or explosion;
- c. violent reaction;
- d. toxic dusts, mists, fumes, or gases; or
- e. flammable fumes or gases.

2. Paragraph 5 of this Appendix contains examples of potentially incompatible wastes, waste components, and materials, along with the harmful consequences that result from mixing materials in one group with materials in another group. Paragraph 5 is intended as a guide to owners or operators of treatment, storage, and disposal facilities, and to enforcement and permit-granting officials, to indicate the need for special precautions when managing these potentially incompatible waste materials or components.

3. The tables in Paragraph 5 are not intended to be exhaustive. An owner or operator must, as the regulations require, adequately analyze his wastes so that he can avoid creating uncontrolled substances or reactions of the types listed in Paragraph 5, whether they are listed in Paragraph 5 or not.

4. It is possible for potentially incompatible wastes to be mixed in a way that precludes a reaction (e.g., adding acid to water rather than water to acid) or that neutralizes them (e.g., a strong acid mixed with a strong base), or that controls substances produced (e.g., by generating flammable gases in a closed tank equipped so that ignition cannot occur, and burning the gases in an incinerator).

5. In the tables below, the mixing of a Group A material with a Group B material may have the potential consequence as noted.

Group 1 Materials	
Group 1-A:	
Acetylene sludge	
Alkaline caustic liquids	
Alkaline cleaner	
Alkaline corrosive liquids	
Alkaline corrosive battery fluid	
Caustic wastewater	
Lime sludge and other corrosive alkalis	
Lime wastewater	
Lime and water	
Spent caustic	
Group 1-B:	
Acid sludge	
Acid and water	
Battery acid	
Chemical cleaners	
Electrolyte, acid	
Etching acid liquid or solvent	
Pickling liquor and other corrosive acids	
Spent acid	
Spent mixed acid	
Spent sulfuric acid	
Potential Consequences:	
Heat generation or violent reaction	

Group 2 Materials	
Group 2-A:	
Aluminum	
Beryllium	
Calcium	
Lithium	
Magnesium	
Potassium	
Sodium	
Zinc powder	
Other reactive metals and metal hydrides	
Group 2-B:	
Any waste in Group 1-A or 1-B	
Potential Consequences:	
Fire or explosion; generation of flammable hydrogen gas	

Group 3 Materials	
Group 3-A:	
Alcohols	
Water	
Group 3-B:	
Any concentrated waste in Group 1-A or 1-B	
Calcium	
Lithium	
Metal hydrides	
Potassium	
SO ₂ Cl ₂ , SOCl ₂ , PCl ₃ , CH ₃ SiCl ₃	
Other water-reactive waste	
Potential Consequences:	
Fire, explosion, or heat generation; generation of flammable or toxic gases	

Group 4 Materials	
Group 4-A:	
Alcohols	
Aldehydes	
Halogenated hydrocarbons	
Nitrated hydrocarbons	
Unsaturated hydrocarbons	
Other reactive organic compounds and solvents	
Group 4-B:	
Concentrated Group 1-A or 1-B wastes	
Group 2-A wastes	
Potential Consequences:	
Fire, explosion, or violent reaction	

Group 5 Materials	
Group 5-A:	
Spent cyanide and sulfide solutions	
Group 5-B:	
Group 1-B wastes	
Potential Consequences:	
Generation of toxic hydrogen cyanide or hydrogen sulfide gas	

Group 6 Materials	
Group 6-A:	
Chlorates	
Chlorine	
Chlorites	
Chromic acid	
Hypochlorites	
Nitrates	
Nitric acid, fuming	
Perchlorates	
Permanganates	
Peroxides	
Other strong oxidizers	
Group 6-B:	
Acetic acid and other organic acids	
Concentrated mineral acids	
Group 2-A wastes	
Group 4-A wastes	
Other flammable and combustible wastes	
Potential Consequences:	
Fire, explosion, or violent reaction	

¹Source: "Law, Regulations, and Guidelines for Handling of Hazardous Waste." California Department of Health, February 1975.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq. and, in particular, 2186(A)(2).

HISTORICAL NOTE: Promulgated by the Office of the Secretary, Legal Affairs Division, LR 33:452 (March 2007), amended LR 34:617 (April 2008).

Chapter 3. General Conditions for Treatment, Storage, and Disposal Facility Permits

§303. Overview of the Permit Program

A. - P.2. ...

Q. Other Information. The administrative authority may require a permittee or an applicant to submit relevant information in order to establish permit conditions under LAC 33:V.311.E-F and 315.

R. If the administrative authority concludes, based on one or more of the factors listed in Paragraphs R.1-9 of this Section, that compliance with the standards of 40 CFR Part 63, Subpart EEE, as incorporated by reference at LAC 33:III.5122, alone may not be protective of human health or the environment, the administrative authority shall require the additional information or assessment necessary to determine whether additional controls are necessary to ensure protection of human health and the environment. This includes information necessary to evaluate the potential risk to human health and/or the environment resulting from both direct and indirect exposure pathways. The administrative authority may also require a permittee or applicant to provide information necessary to determine whether such an assessment should be required. The administrative authority shall base the evaluation of whether compliance with the standards of 40 CFR Part 63, Subpart EEE, as incorporated by reference at LAC 33:III.5122, alone is protective of human health or the environment on factors relevant to the potential risk from a hazardous waste combustion unit, including, as appropriate, any of the following factors:

1. particular site-specific considerations such as proximity to receptors (such as schools, hospitals, nursing homes, day care centers, parks, community activity centers, or other potentially sensitive receptors), unique dispersion patterns, etc.;

2. identities and quantities of emissions of persistent, bioaccumulative, or toxic pollutants considering enforceable controls in place to limit those pollutants;

3. identities and quantities of nondioxin products of incomplete combustion most likely to be emitted and to pose significant risk based on known toxicities (confirmation of which should be made through emissions testing);

4. identities and quantities of other off-site sources of pollutants in proximity to the facility that significantly influence interpretation of a facility-specific risk assessment;

5. presence of significant ecological considerations, such as the proximity of a particularly sensitive ecological area;

6. volume and types of wastes, for example wastes containing highly toxic constituents;

7. other on-site sources of hazardous air pollutants that significantly influence interpretation of the risk posed by the operation of the source in question;

8. the adequacy of any previously conducted risk assessment, given any subsequent changes in conditions likely to affect risk; and

9. such other factors as may be appropriate.

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 14:790 (November 1988), LR 16:220 (March 1990), LR 17:478 (May 1991), LR 17:658 (July 1991), LR

20:1000 (September 1994), LR 21:564 (June 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2466 (November 2000), LR 27:708 (May 2001), amended by the Office of Environmental Assessment, LR 30:2023 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2453 (October 2005), LR 33:2099 (October 2007), LR 34:619 (April 2008).

§305. Scope of the Permit

A. - C.12. ...

13. a person, not required to obtain a RCRA permit for treatment or containment activities taken during immediate response to any of the following situations:

C.13.a. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 16:220 (March 1990), LR 16:614 (July 1990), LR 17:658 (July 1991), LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:944 (September 1995), LR 23:567 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1105 (June 1998), LR 24:1690, 1759 (September 1998), LR 25:435 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:708 (May 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:3116 (December 2005), LR 33:1625 (August 2007), LR 34:619 (April 2008).

§311. Establishing Permit Conditions

A. - E. ...

F. RCRA Permits for Hazardous Waste Combustion Units. If, as the result of an assessment or other information, the administrative authority determines that conditions are necessary in addition to those required under 40 CFR Part 63, Subpart EEE, as incorporated by reference at LAC 33:III.5122, or LAC 33:V.Chapters 11, 15, 17, 19, 21, 22, 23, 25, 27, 28, 29, 30, 31, 32, 33, 35, 37, and 41, to ensure protection of human health and the environment, the administrative authority shall include those conditions in a RCRA permit for a hazardous waste combustion unit.

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 16:220 (March 1990), LR 18:1256 (November 1992), LR 20:1000 (September 1994), amended by the Office of the Secretary, Legal Affairs Division, LR 34:619 (April 2008).

§321. Modification of Permits

A. - C.9. ...

10. Combustion Facility Changes to Meet 40 CFR Part 63 Maximum Achievable Control Technology (MACT) Standards, as Incorporated by Reference at LAC 33:III.5122. The following procedures apply to hazardous waste combustion facility permit modifications requested under LAC 33:V.322.L.9.

a. Facility owners or operators must have complied with the Notification of Intent to Comply (NIC) requirements of 40 CFR 63.1210 that were in effect prior to October 11, 2000 (see 40 CFR 63.1200-1499, revised as of July 1, 2000) in order to request a permit modification under this Section for the purpose of technology changes needed to meet the standards under 40 CFR 63.1203-1205.

b. Facility owners or operators must comply with the NIC requirements of 40 CFR 63.1210(b) and 63.1212(a) before a permit modification can be requested under this Section for the purpose of technology changes needed to meet the 40 CFR 63.1215-1221 standards promulgated on October 12, 2005.

c. If the administrative authority does not approve or deny the request within 90 days of receiving it, the request shall be deemed approved. The administrative authority may, at his or her discretion, extend this 90-day deadline one time for up to 30 days by notifying the facility owner or operator.

11. Waiver of RCRA Permit Conditions in Support of Transition to the 40 CFR Part 63 MACT Standards, as Incorporated by Reference at LAC 33:III.5122

a. Facility owners or operators may request to have specific RCRA operating and emissions limits waived by submitting a Class 1 permit modification request under the requirements of this Section and LAC 33:V.322.L.10. As part of this request, the facility owner or operator must:

- i. identify the specific RCRA permit operating and emissions limits which the facility owner or operator is requesting to waive;
- ii. provide an explanation of why the changes are necessary in order to minimize or eliminate conflicts between the RCRA permit and MACT compliance; and
- iii. provide an explanation of how the revised provisions will be sufficiently protective.

b. The administrative authority shall approve or deny the request within 30 days of receipt of the request. The administrative authority may extend, at his or her discretion, this 30-day deadline one time for up to 30 days by notifying the facility owner or operator.

c. The facility owner or operator may request this modification in conjunction with MACT performance testing where permit limits may only be waived during actual test events and pretesting, as defined in 40 CFR 63.1207(h)(2)(i) and (ii), for an aggregate time not to exceed 720 hours of operation (renewable at the discretion of the administrative authority). The modification request shall be submitted to the administrative authority at the same time that the test plans are submitted. The administrative authority may elect to approve or deny this request contingent upon approval of the test plans.

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 13:433 (August 1987), LR 15:378 (May 1989), LR 16:614 (July 1990), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1691 (September 1998), LR 25:435 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2466 (November 2000), LR 28:1000 (May 2002), LR 29:319 (March 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2430, 2454 (October 2005), LR 33:2100 (October 2007), LR 34:619 (April 2008).

§322. Classification of Permit Modifications

The following is a listing of classifications of permit modifications made at the request of the permittee.

Modifications	Class
* * *	
[See Prior Text in A. - C.3.]	
4. Changes in point of compliance	2
* * *	
[See Prior Text in C.5. - L.9.]	
10. Changes to RCRA permit provisions needed to support transition to 40 CFR Part 63, Subpart EEE, as incorporated by reference at LAC 33:III.5122, provided the procedures of LAC 33:V.321.C.11 are followed	11
* * *	
[See Prior Text in M. - N.3.]	
1Class 1 modifications requiring prior administrative authority approval.	

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 13:433 (August 1987), LR 16:614 (July 1990), LR 17:658 (July 1991), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:815 (September 1996), amended by the Office of the Secretary, LR 24:2245 (December 1998), amended by the Office of Waste Services, Hazardous Waste Division, LR 25:436 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:270 (February 2000), LR 27:292 (March 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 34:620 (April 2008).

Chapter 5. Permit Application Contents
Subchapter B. Signatories to Permit Applications and Reports, Changes of Authorizations, and Certifications

§513. Certification

A.1. - Certification. ...

2. For remedial action plans (RAPs) under LAC 33:V.Chapter 5.Subchapter G, if the operator certifies according to Paragraph A.1 of this Section, then the owner may choose to make the following certification instead of the certification in Paragraph A.1 of this Section.

"Based on my knowledge of the conditions of the property described in the RAP and my inquiry of the person or persons who manage the system referenced in the operator's certification, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

B.1. - B.2.Statement. ...

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 18:1256 (November 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:271 (February 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 34:620 (April 2008).

Subchapter E. Specific Information Requirements

§529. Specific Part II Information Requirements for Incinerators

Except as LAC 33:V.Chapter 31 and Subsection F of this Section provide otherwise, owners and operators of facilities that incinerate hazardous waste must fulfill the requirements of Subsection A, B, or C of this Section:

A. - E.3. ...

F. when an owner or operator of a hazardous waste incineration unit becomes subject to RCRA permit

requirements after October 12, 2005, or when an owner or operator of an existing hazardous waste incineration unit demonstrates compliance with the air emission standards and limitations in 40 CFR Part 63, Subpart EEE, as incorporated by reference at LAC 33:III.5122 (i.e., by conducting a comprehensive performance test and submitting a notification of compliance in accordance with 40 CFR 63.1207(j) and 63.1210(d), documenting compliance with all applicable requirements of 40 CFR Part 63, Subpart EEE), the requirements of this Section do not apply, except those provisions the administrative authority determines are necessary to ensure compliance with LAC 33:V.3117.A and C if the owner or operator elects to comply with LAC 33:V.2001.A.1.a to minimize emissions of toxic compounds from startup, shutdown, and malfunction events. Nevertheless, the administrative authority may apply the provisions of this Section, on a case-by-case basis, for purposes of information collection in accordance with LAC 33:V.303.Q-R and 311.E-F.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(24)(a) and 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 22:817 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 25:2199 (November 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:292 (March 2001), LR 29:319 (March 2003), amended by the Office of Environmental Assessment, LR 31:1571 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 34:620 (April 2008).

§530. Specific Part II Information Requirements for Process Vents

Except as otherwise provided in LAC 33:V.1501, owners and operators of facilities that have process vents to which LAC 33:V.Chapter 17.Subchapter A applies must provide the following additional information.

A. - D.2. ...

3. a design analysis, specifications, drawings, schematics, and piping and instrumentation diagrams based on the appropriate sections of "APTI Course 415: Control of Gaseous Emissions," as incorporated by reference at LAC 33:V.110, or other engineering texts acceptable to the administrative authority that present basic control device information. The design analysis shall address the vent stream characteristics and control device operation parameters as specified in LAC 33:V.1713.B.4.c;

4. - 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 17:658 (July 1991), amended LR 18:1256 (November 1992), LR 22:817 (September 1996), amended by the Office of the Secretary, Legal Affairs Division, LR 34:621 (April 2008).

§535. Specific Part II Information Requirements for Boilers and Industrial Furnaces Burning Hazardous Waste for Energy or Material Recovery and Not for Destruction

A. - F. ...

G. When an owner or operator of a cement or lightweight aggregate kiln, solid fuel or liquid fuel boiler, or

hydrochloric acid production furnace becomes subject to RCRA permit requirements after October 12, 2005, or when an owner or operator of an existing cement or lightweight aggregate kiln, solid fuel or liquid fuel boiler, or hydrochloric acid production furnace demonstrates compliance with the air emission standards and limitations in 40 CFR Part 63, Subpart EEE, as incorporated by reference at LAC 33:III.5122 (i.e., by conducting a comprehensive performance test and submitting a notification of compliance in accordance with 40 CFR 63.1207(j) and 63.1210(d), documenting compliance with all applicable requirements of 40 CFR Part 63, Subpart EEE), the requirements of this Section do not apply. However, the requirements of this Section do apply if:

1. the administrative authority determines that certain provisions of this Section are necessary to ensure compliance with LAC 33:V.3005.E.1 and 2.c if the owner or operator elects to comply with LAC 33:V.2001.A.1.a to minimize emissions of toxic compounds from startup, shutdown, and malfunction events;

2. the facility is an *area source* as defined in LAC 33:III.5103 and the owner or operator elects to comply with the standards and associated requirements in LAC 33:V.3011, 3013, and 3015 for particulate matter, non-mercury metals, and hydrogen chloride and chlorine gas; or

3. the administrative authority determines that certain provisions of this Section apply, on a case-by-case basis, for purposes of information collection in accordance with LAC 33:V.303.Q-R and 311.E-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 15:737 (September 1989), amended LR 18:1375 (December 1992), LR 21:266 (March 1995), LR 22:817 (September 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:292 (March 2001), LR 29:319 (March 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 34:621 (April 2008).

§536. Specific Part II Information Requirements for Equipment

Except as otherwise provided in LAC 33:V.1501, owners and operators of facilities that have equipment to which LAC 33:V.Chapter 17.Subchapter B applies must provide the following additional information.

A. - E.2. ...

3. a design analysis, specifications, drawings, schematics, and piping and instrumentation diagrams based on the appropriate sections of "APTI Course 415: Control of Gaseous Emissions," as incorporated by reference at LAC 33:V.110, or other engineering texts acceptable to the administrative authority that present basic control device information. The design analysis shall address the vent stream characteristics and control device operation parameters as specified in LAC 33:V.1713.B.4.c;

4. - 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 17:658 (July 1991), amended LR 18:1256 (November 1992), LR 22:817 (September 1996), amended by the Office of the Secretary, Legal Affairs Division, LR 34:621 (April 2008).

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.)

A. - C.2. ...

D. When an owner or operator of a cement or lightweight aggregate kiln, solid fuel or liquid fuel boiler, or hydrochloric acid production furnace becomes subject to RCRA permit requirements after October 12, 2005, or when an owner or operator of an existing cement or lightweight aggregate kiln, solid fuel or liquid fuel boiler, or hydrochloric acid production furnace demonstrates compliance with the air emission standards and limitations in 40 CFR Part 63, Subpart EEE, as incorporated by reference at LAC 33:III.5122 (i.e., by conducting a comprehensive performance test and submitting a notification of compliance in accordance with 40 CFR 63.1207(j) and 63.1210(d), documenting compliance with all applicable requirements of 40 CFR Part 63, Subpart EEE), the requirements of this Section do not apply. However, the requirements of this Section do apply if:

1. the administrative authority determines that certain provisions of this Section are necessary to ensure compliance with LAC 33:V.3005.E.1 and 2.c if the owner or operator elects to comply with LAC 33:V.2001.A.1.a to minimize emissions of toxic compounds from startup, shutdown, and malfunction events;

2. the facility is an *area source* as defined in LAC 33:III.5103 and the owner or operator elects to comply with the standards and associated requirements in LAC 33:V.3011, 3013, and 3015 for particulate matter, non-mercury metals, and hydrogen chloride and chlorine gas; or

3. the administrative authority determines that certain provisions of this Section apply, on a case-by-case basis, for purposes of information collection in accordance with LAC 33:V.303.Q-R and 311.E-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 15:737 (September 1989), amended LR 18:1375 (December 1992), LR 21:266 (March 1995), LR 22:818, 832 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:657 (April 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2468 (November 2000), LR 27:292 (March 2001), LR 29:320 (March 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2455 (October 2005), LR 33:2101 (October 2007), LR 34:622 (April 2008).

Chapter 11. Generators

Subchapter A. General

§1107. The Manifest System

A. - B.1.e. ...

2. The certification that appears on the manifest must be read, signed, and dated by the generator as follows.

"I hereby declare that the contents of this consignment are fully and accurately described above by proper shipping name and are classified, packaged, marked, and labeled/placarded, and are in all respects in proper condition for transport by highway according to applicable international and national government regulations. If this is an export shipment and I am the primary exporter, I certify that the contents of this

consignment conform to the terms of the attached EPA Acknowledgment of Consent."

C. - E.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), amended LR 10:496 (July 1984), LR 12:319 (May 1986), LR 16:220 (March 1990), LR 17:362 (April 1991), LR 17:478 (May 1991), LR 18:1256 (November 1992), LR 20:1109 (October 1994), LR 21:266, 267 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1693 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2470 (November 2000), LR 27:42 (January 2001), LR 27:709 (May 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 32:823 (May 2006), LR 33:89 (January 2007), repromulgated LR 33:281 (February 2007), amended LR 33:2101 (October 2007), LR 34:622 (April 2008).

§1109. Pre-Transport Requirements

A. - C, Manifest Tracking Number. ...

D. Placarding. Before transporting hazardous waste or offering hazardous waste for transportation off-site, a generator must placard, or offer the initial transporter the appropriate placards for, the shipment according to Department of Public Safety regulations for hazardous materials under LAC 33:V.Subpart 2.Chapter 105.

E. - F.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), amended LR 10:496 (July 1984), LR 13:433 (August 1987), LR 16:47 (January 1990), LR 16:220 (March 1990), LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 18:1256 (November 1992), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1693 (September 1998), LR 25:437 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1466 (August 1999), LR 26:277 (February 2000), LR 26:2470 (November 2000), LR 27:293 (March 2001), LR 27:709, 716 (May 2001), LR 27:1014 (July 2001), LR 30:1673 (August 2004), amended by the Office of Environmental Assessment, LR 31:1571 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:823 (May 2006), LR 33:2102 (October 2007), LR 34:622 (April 2008).

§1113. Exports of Hazardous Waste

A. - D.1.b.viii. ...

2. Notification shall be sent to the Office of Environmental Services, with "Attention: Notification to Export" prominently displayed on the front of the envelope.

[NOTE: This does not relieve the regulated community from the requirement of submitting notification to the Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460, as required by 40 CFR 262.53(b) and LAC 33:V.1113.D.1.]

D.3. - I.1. ...

a. For the purposes of these regulations the designated OECD countries consist of Australia, Austria, Belgium, the Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Poland, Portugal, the Slovak Republic, South Korea, Spain,

Sweden, Switzerland, Turkey, the United Kingdom, and the United States.

1.b. - 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), 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), amended by the Office of the Secretary, LR 22:344 (May 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:661 (April 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2471 (November 2000), LR 27:710 (May 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 32:824 (May 2006), LR 33:2102 (October 2007), LR 34:72 (January 2008), LR 34:622 (April 2008).

Chapter 15. Treatment, Storage, and Disposal Facilities

§1501. Applicability

A. - C.1. ...

2. the owner or operator of a facility managing recycled material described in LAC 33:V.4105.A (except to the extent they are referred to in LAC 33:V.Chapter 30 or 40 or LAC 33:V.4139, 4141, 4143, or 4145);

C.3. - H.13. ...

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 18:1256 (November 1992), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 23:565, 568 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1106 (June 1998), LR 24:1694, 1759 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:277 (February 2000), LR 27:711 (May 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:3117 (December 2005), LR 32:606 (April 2006), LR 34:623 (April 2008).

§1516. Manifest System for Treatment, Storage, and Disposal (TSD) Facilities

A. - C.5.a.iii. ...

iv. Copy the manifest tracking number in Item 4 of the new manifest to the manifest reference number line in the Discrepancy block of the old manifest (Item 18a).

C.5.a.v. - D.7.Comment....

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 32:825 (May 2006), amended LR 33:2104 (October 2007), LR 34:623 (April 2008).

§1529. Operating Record and Reporting Requirements

A. - B.2. ...

3. record the estimated or manifest-reported weight, or volume and density, where applicable, in one of the units of measure specified in Table 1:

Unit of Measure	Code ¹
Short tons	T
Kilograms	K
Tons	M

¹ Single digit symbols are used here for data processing purposes.

4. the method(s) [by handling code(s) as specified in Table 2] and date(s) of treatment, storage, or disposal:

Enter the handling code(s) listed below that most closely represents the technique(s) used at the facility to treat, store, or dispose of each quantity of hazardous waste received.	
Storage	
* * *	
[See Prior Text in S01 – S99]	
Treatment	
Thermal Treatment	* * *
[See Prior Text in T06 – T18]	
Chemical Treatment	* * *
[See Prior Text in T19 – T34]	
Physical Treatment	
Separation of Components:	* * *
[See Prior Text in T35 – T47]	
Removal of Specific Components:	* * *
[See Prior Text in T48 – T66]	
Biological Treatment	* * *
[See Prior Text in T67 – T74]	
T75	Trickling filter
* * *	
[See Prior Text in T76 – T79]	
Boilers and Industrial Furnaces	* * *
[See Prior Text in T80 – T93]	
Other Treatment	* * *
[See Prior Text in T94]	
Disposal	
* * *	
[See Prior Text in D79 – D99]	
Miscellaneous (Chapter 32)	
* * *	
[See Prior Text in X01 – X99]	

B.5. - E.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 15:378 (May 1989), LR 16:220 (March 1990), LR 16:399 (May 1990), LR 17:658 (July 1991), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 22:832 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1695 (September 1998), LR 25:437 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1799 (October 1999), LR 26:278 (February 2000), LR 26:2473 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 32:827 (May 2006), LR 33:2104 (October 2007), LR 34:623 (April 2008).

Unit of Measure	Code ¹
* * *	
[See Prior Text in Gallons – Btu's per Hour]	
Pounds	P

Chapter 17. Air Emission Standards
Subchapter C. Air Emission Standards for Tanks, Surface Impoundments, and Containers
§1799. Appendix—Table 1, Compounds with Henry’s Law Constant Less than 0.1 Y/X [At 25°C]

Table 1	
Compounds with Henry’s Law Constant Less than 0.1 Y/X [At 25°C]	
Compound Name	CAS Number
*** [See Prior Text in Acetaldol – 3,4-Dichlorotetrahydrofuran]	
Dichlorvos (DDVP)	62-73-7
*** [See Prior Text in Diethanolamine – Ethylene glycol monophenyl ether (phenyl Cellosolve)]	
Ethylene glycol monopropyl ether (propyl Cellosolve)	2807-30-9
Ethylene thiourea (2-imidazolidinethione)	96-45-7
*** [See Prior Text in 4-Ethylmorpholine – beta-Naphthylamine]	
Neopentyl glycol (dimethylpropane)	126-30-7
*** [See Prior Text in Niacinamide – 3,4-Xylenol (3,4-dimethylphenol)]	

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 24:1721 (September 1998), amended by the Office of the Secretary, Legal Affairs Division, LR 34:624 (April 2008).

Chapter 18. Containment Buildings

§1802. Design and Operating Standards

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

c. the secondary containment system must be constructed of materials that are chemically resistant to the waste and liquids managed in the containment building and of sufficient strength and thickness to prevent collapse under the pressure exerted by overlaying materials and by any equipment used in the containment building (Containment buildings can serve as secondary containment systems for tanks placed within the building under certain conditions. A containment building can serve as an external liner system for a tank, provided it meets the requirements of LAC 33:V.1907.E.1. In addition, the containment building must meet the requirements of LAC 33:V.1907.B and C.1 and 2 to be considered an acceptable secondary containment system for a tank.);

B.4. - C.3. ...

a. upon detection of a condition that has led to a release of hazardous waste (e.g., upon detection of leakage from the primary barrier) the owner or operator must:

3.a.i. - 4. ...

D. For a containment building that contains both areas with and without secondary containment, the owner or operator must:

D.1. - E. ...

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 21:266 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2475 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2106 (October 2007), LR 34:624 (April 2008).

Chapter 19. Tanks

§1907. Containment and Detection of Releases

A. - C.3. ...

4. sloped or otherwise designed or operated to drain and remove liquids resulting from leaks, spills, or precipitation. Spilled or leaked waste and accumulated precipitation must be removed from the secondary containment system within 24 hours, or in as timely a manner as is possible to prevent harm to human health and the environment, if the owner or operator can demonstrate to the administrative authority that removal of the released waste or accumulated precipitation cannot be accomplished within 24 hours.

[NOTE: If the collected material is a *hazardous waste* as defined in LAC 33:V.109, it is subject to management as a hazardous waste in accordance with all applicable requirements of LAC 33:V.Chapters 11, 13, 15, 17, 19, 21, 23, 25, 27, 28, 29, 31, 33, 35, 37, and 43. If the collected material is discharged through a point source to waters of the United States, it is subject to the requirements of Sections 301, 304, and 402 of the Clean Water Act, as amended. If discharged to a Publicly Owned Treatment Works (POTW), it is subject to the requirements of Section 307 of the Clean Water Act, as amended. If the collected material is released to the environment, it may be subject to the reporting requirements of 40 CFR Part 302.]

D. - E.2.e.i. ...

ii. meets the definition of reactive waste under LAC 33:V.4903.D, and may form an ignitable or explosive vapor; and

E.2.f. - I.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 13:651 (November 1987), LR 14:790 (November 1988), LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2475 (November 2000), amended by the Office of Environmental Assessment, LR 31:1572 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2107 (October 2007), LR 34:624 (April 2008).

Chapter 20. Integration with Maximum Achievable Control Technology (MACT) Standards

§2001. Options for Incinerators, Cement and Lightweight Aggregate Kilns, Solid Fuel and Liquid Fuel Boilers, and Hydrochloric Acid Production Furnaces to Minimize Emissions from Startup, Shutdown, and Malfunction Events

[NOTE: This Chapter is written in a special format to make it easier to understand the regulatory requirements. Like other department regulations, this establishes enforceable legal requirements. For this Chapter, "I" and "you" refer to the owner/operator.]

A. Facilities with Existing Permits

1. Revisions to Permit Conditions after Documenting Compliance with MACT. The owner or operator of a RCRA-permitted incinerator, cement kiln, lightweight aggregate kiln, solid fuel boiler, liquid fuel boiler, or hydrochloric acid production furnace may request that the administrative authority address permit conditions that minimize emissions from startup, shutdown, and malfunction events under any of the following options when requesting removal of permit conditions that are no longer applicable according to LAC 33:V.3105.B and LAC 33:V.3001.B.

a. - c.ii. ...

2. Addressing Permit Conditions upon Permit Reissuance. The owner or operator of an incinerator, cement kiln, lightweight aggregate kiln, solid fuel boiler, liquid fuel boiler, or hydrochloric acid production furnace that has conducted a comprehensive performance test and submitted to the administrator a Notification of Compliance documenting compliance with the standards of 40 CFR Part 63, Subpart EEE, as incorporated by reference at LAC 33:III.5122, may request in the application to reissue the permit for the combustion unit that the administrative authority control emissions from startup, shutdown, and malfunction events under any of the following options.

a. - c.ii. ...

B. Interim Status Facilities

1. Interim Status Operations. In compliance with LAC 33:V.4513 and LAC 33:V.3001.B, the owner or operator of an incinerator, cement kiln, lightweight aggregate kiln, solid fuel boiler, liquid fuel boiler, or hydrochloric acid production furnace that is operating under the interim status standards of LAC 33:V.Chapters 30 and 43 may control emissions of toxic compounds during startup, shutdown, and malfunction events under either of the following options after conducting a comprehensive performance test and submitting to the administrator a Notification of Compliance documenting compliance with the standards of 40 CFR Part 63, Subpart EEE, as incorporated by reference at LAC 33:III.5122.

a. - b. ...

2. Operations under a Subsequent RCRA Permit. When an owner or operator of an incinerator, cement kiln, lightweight aggregate kiln, solid fuel boiler, liquid fuel boiler, or hydrochloric acid production furnace that is

operating under the interim status standards of LAC 33:V.Chapters 30 and 43 submits a RCRA permit application, the owner or operator may request that the administrative authority control emissions from startup, shutdown, and malfunction events under any of the options provided by Subparagraph A.2.a, b, or c of this Section.

C. New Units. Hazardous waste incinerator, cement kiln, lightweight aggregate kiln, solid fuel boiler, liquid fuel boiler, and hydrochloric acid production furnace units that become subject to RCRA permit requirements after October 12, 2005, must control emissions of toxic compounds during startup, shutdown, and malfunction events under either of the following options:

1. comply with the requirements specified in 40 CFR 63.1206(c)(2); or

2. request to include in the RCRA permit, conditions that ensure emissions of toxic compounds are minimized from startup, shutdown, and malfunction events, including releases from emergency safety vents, based on review of information, including the source's startup, shutdown, and malfunction plan and design. The administrative authority will specify that these permit conditions apply only when the facility is operating under its startup, shutdown, and malfunction plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 29:320 (March 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 34:624 (April 2008).

§2299. Appendix—Tables 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12

Table 2. Treatment Standards for Hazardous Wastes					
Waste Code	Waste Description and Treatment/Regulatory Subcategory ¹	Regulated Hazardous Constituent		Wastewaters	Non-Wastewaters
		Common Name	CAS ² Number	Concentration ³ in mg/L; or Technology Code ⁴	Concentration ⁵ in mg/kg unless noted as "mg/L TCLP"; or Technology Code ⁴
*** [See Prior Text in D001 – K048]					
K049	Slop oil emulsion solids from the petroleum refining industry.	Anthracene	120-12-7	0.059	3.4
		Benzene	71-43-2	0.14	10
		Benzo(a)pyrene	50-32-8	0.061	3.4
		bis(2-Ethylhexyl) phthalate	117-81-7	0.28	28
		Carbon disulfide	75-15-0	3.8	NA
		Chrysene	218-01-9	0.059	3.4
		2,4-Dimethylphenol	105-67-9	0.036	NA
		Ethylbenzene	100-41-4	0.057	10
		Naphthalene	91-20-3	0.059	5.6
		Phenanthrene	85-01-8	0.059	5.6
		Phenol	108-95-2	0.039	6.2
		Pyrene	129-00-0	0.067	8.2
		Toluene	108-88-3	0.080	10
		Xylenes-mixed isomers (sum of o-, m-, and p-xylene concentrations)	1330-20-7	0.32	30
		Cyanides (Total) ⁷	57-12-5	1.2	590
Chromium (Total)	7440-47-3	2.77	0.60 mg/L TCLP		
Lead	7439-92-1	0.69	NA		
Nickel	7440-02-0	NA	11 mg/L TCLP		
*** [See Prior Text in K050]					
K051	API separator sludge from the petroleum refining industry.	Acenaphthene	83-32-9	0.059	NA
		Anthracene	120-12-7	0.059	3.4
		Benz(a)anthracene	56-55-3	0.059	3.4

		Benzene	71-43-2	0.14	10
		Benzo(a)pyrene	50-32-8	0.061	3.4
		bis(2-Ethylhexyl) phthalate	117-81-7	0.28	28
		Chrysene	218-01-9	0.059	3.4
		Di-n-butyl phthalate	105-67-9	0.057	28
		Ethylbenzene	100-41-4	0.057	10
		Fluorene	86-73-7	0.059	NA
		Naphthalene	91-20-3	0.059	5.6
		Phenanthrene	85-01-8	0.059	5.6
		Phenol	108-95-2	0.039	6.2
		Pyrene	129-00-0	0.067	8.2
		Toluene	108-88-3	0.08	10
		Xylenes-mixed isomers (sum of o-, m-, and p-xylene concentrations)	1330-20-7	0.32	30
		Cyanides (Total) ⁷	57-12-5	1.2	590
		Chromium (Total)	7440-47-3	2.77	0.60 mg/L TCLP
		Lead	7439-92-1	0.69	NA
		Nickel	7440-02-0	NA	11 mg/L TCLP

[See Prior Text in K052 – K087]					
K088	Spent potliners from primary aluminum reduction.	Acenaphthene	83-32-9	0.059	3.4
		Anthracene	120-12-7	0.059	3.4
		Benzo(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-cd)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	1.15 mg/L TCLP
		Arsenic	7440-38-2	1.4	26.1
		Barium	7440-39-3	1.2	21 mg/L TCLP
		Beryllium	7440-41-7	0.82	1.22 mg/L TCLP
		Cadmium	7440-43-9	0.69	0.11 mg/L TCLP
		Chromium (Total)	7440-47-3	2.77	0.60 mg/L TCLP
		Lead	7439-92-1	0.69	0.75 mg/L TCLP
		Mercury	7439-97-6	0.15	0.025 mg/L TCLP
		Nickel	7440-02-0	3.98	11 mg/L TCLP
		Selenium	7782-49-2	0.82	5.7 mg/L TCLP
		Silver	7440-22-4	0.43	0.14 mg/L TCLP
		Cyanide (Total) ⁷	57-12-5	1.2	590
		Cyanide (Amenable) ⁷	57-12-5	0.86	30
		Fluoride	16984-48-8	35	NA

[See Prior Text in K093 – K110]					
K111	Product washwaters from the production of dinitrotoluene via nitration of toluene	2,4-Dinitrotoluene	121-14-2	0.32	140
		2,6-Dinitrotoluene	606-20-2	0.55	28

[See Prior Text in K112 – K151]					
K156	Organic waste (including heavy ends, still bottoms, light ends, spent solvents, filtrates, and decantates) from the production of carbamates and carbamoyl oximes. ¹⁰	Acetonitrile	75-05-8	5.6	1.8
		Acetophenone	98-86-2	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	16752-77-5	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
* * *					
[See Prior Text in K157 – U133]					
U134	Hydrogen fluoride	Fluoride (measured in wastewaters only)	7664-39-3	35	ADGAS fb NEUTR; or NEUTR
* * *					
[See Prior Text in U135 – U136]					
U137	Indeno(1,2,3-cd)pyrene	Indeno(1,2,3-cd)pyrene	193-39-5	0.0055	3.4
* * *					
[See Prior Text in U138 – U411]					

Footnote 1 - Footnote 12 ...
 [Note: NA means Not Applicable.]
 Table 3. - Table 6. ...

Table 7. Universal Treatment Standards			
Regulated Constituent–Common Name	CAS ¹ Number	Wastewater Standard Concentration ² in mg/L	Nonwastewater Standard Concentration ³ in mg/kg unless noted as "mg/L TCLP"
Organic Constituents			
* * *			
[See Prior Text in Acenaphthylene – Xylenes-mixed isomers (sum of o-, m-, and p- xylene concentrations)]			
Inorganic Constituents			
* * *			
[See Prior Text in Antimony – Zinc]			

Footnote 1. ...
²Concentration standards for wastewaters are expressed in mg/L and are based on analysis of composite samples.
 Footnote 3. – Footnote 8. ...
 [Note: NA means Not Applicable.]

Table 8. - Table 12. ...
 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), LR 22:834 (September 1996), LR 23:566 (May 1997), LR 24:301 (February 1998), LR 24:670 (April 1998), LR 24:1732 (September 1998), LR 25:451 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:282 (February 2000), LR 27:295 (March 2001), LR 29:322 (March 2003), LR 30:1682 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 32:828 (May 2006), LR 32:1843 (October 2006), LR 34:625 (April 2008).

Chapter 26. Corrective Action Management Units and Special Provisions for Cleanup

§2603. Corrective Action Management Units (CAMUs)

A. - E.6.c.iv. ...

v. hydrogeological and other relevant environmental conditions at the facility that may influence the migration of any potential or actual releases; and

E.6.c.vi. - K. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:1192 (June 2002), amended LR 29:323 (March 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 34:627 (April 2008).

Chapter 28. Drip Pads

§2805. Design and Operating Requirements

Owners and operators of drip pads must ensure that the pads are designed, installed, and operated in accordance with Subsection A or C of this Section.

A. - A.3. ...

4. have a hydraulic conductivity of less than or equal to 1×10^{-7} centimeters per second, e.g., existing concrete drip pads must be sealed, coated, or covered with a surface material with a hydraulic conductivity of less than or equal to 1×10^{-7} centimeters per second such that the entire surface on which drippage occurs or across which it may run is capable of containing such drippage and mixtures of drippage and precipitation, materials, or other wastes while being routed to an associated collection system. This surface material must be maintained free of cracks and gaps that could adversely affect its hydraulic conductivity, and the material must be chemically compatible with the preservatives that contact the drip pad. The requirements of this provision apply only to existing drip pads and those drip pads for which the owner or operator elects to comply with LAC 33:V.2805 (except LAC 33:V.2805.C), 2807, and 2809 instead of LAC 33:V.2805 (except LAC 33:V.2805.A.4 and B), 2807, and 2809; and

A.5. - B. ...

C. If an owner or operator elects to comply with all of the requirements of LAC 33:V.2805 (except LAC 33:V.2805.A.4 and B), 2807 and 2809 instead of LAC 33:V.2805 (except LAC 33:V.2805.C), 2807, and 2809, the drip pad must have:

C.1. - P. ...

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 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 21:944 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2482 (November 2000), LR 30:1674 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2462 (October 2005), LR 33:2113 (October 2007), LR 34:627 (April 2008).

Chapter 29. Surface Impoundments

§2903. Design and Operating Requirements

[Comment: The permit applicant must submit detailed plans and specifications accompanied by an engineering report that must collectively include the information itemized and address the following in addition to the design and operating requirements:

(1) a description of the proposed maintenance and repair procedures;

(2) a description of the operating procedures that will ensure compliance with this Section; and

(3) a certification by a qualified engineer that states that the facilities comply with the applicable design requirements in this Section. The owner or operator of a new facility must submit a statement by a qualified engineer that he will provide such a certification upon completion of construction in accordance with the plans and specifications.]

A. - L. ...

1. The monofill contains only hazardous wastes from foundry furnace emission controls or metal casting molding sand, and such wastes do not contain constituents which would render the wastes hazardous for reasons other than the toxicity characteristic in LAC 33:V.4903.E.

2. - 2.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 10:200 (March 1984), amended LR 10:496 (July 1984), LR 16:220 (March 1990), LR 17:658 (July 1991), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 21:266, 267 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2482 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2462 (October 2005), LR 33:2113 (October 2007), LR 34:628 (April 2008).

Chapter 30. Hazardous Waste Burned in Boilers and Industrial Furnaces

§3001. Applicability

A. ...

B. Integration of the MACT Standards

1. Except as provided by Paragraphs B.2-4 of this Section, the standards of this Chapter do not apply to a new hazardous waste boiler or industrial furnace unit that becomes subject to RCRA permit requirements after October 12, 2005, and no longer apply when an owner or operator of an existing hazardous waste boiler or industrial furnace unit demonstrates compliance with the maximum achievable control technology (MACT) requirements of 40 CFR Part 63, Subpart EEE, as incorporated by reference at LAC 33:III.5122, by conducting a comprehensive performance test and submitting to the administrative authority a notification of compliance under 40 CFR 63.1207(j) and 63.1210(d) documenting compliance with the requirements of 40 CFR Part 63, Subpart EEE. Nevertheless, even after this demonstration of compliance with the MACT standards, RCRA permit conditions that were based on the standards of this Chapter will continue to be in effect until they are removed from the permit or the permit is terminated or revoked, unless the permit expressly provides otherwise.

2. - 2.e. ...

3. The owner or operator of a boiler or hydrochloric acid production furnace that is an *area source* as defined in LAC 33:III.5103.A that elects not to comply with the emission standards of 40 CFR 63.1216-1218 for particulate

matter, semivolatile and low volatile metals, and total chlorine, also remains subject to:

a. LAC 33:V.3011—Standards to Control Particulate Matter;

b. LAC 33:V.3013—Standards to Control Metals Emissions, except for mercury; and

c. LAC 33:V.3015—Standards to Control Hydrogen Chloride (HCl) and Chlorine Gas (Cl₂) Emissions.

4. The particulate matter standard of LAC 33:V.3011 remains in effect for boilers that elect to comply with the alternative to the particulate matter standard under 40 CFR 63.1216(e) and 63.1217(e).

C. - D.3. ...

a. The hazardous wastes listed in 40 CFR 266, Appendices XI, XII, and XIII, as adopted and amended at LAC 33:V.3099.Appendices J, K, and L, and baghouse bags used to capture metallic dusts emitted by steel manufacturing are exempt from the requirements of Paragraph D.1 of this Section, provided that:

i. a waste listed in 40 CFR 266, Appendix XI, as adopted at LAC 33:V.3099.Appendix J, contains recoverable levels of lead; a waste listed in 40 CFR 266, Appendix XII, as adopted and amended at LAC 33:V.3099.Appendix K, contains recoverable levels of nickel or chromium; a waste listed in 40 CFR 266, Appendix XIII, as adopted and amended at LAC 33:V.3099.Appendix L, contains recoverable levels of mercury and less than 500 ppm of LAC 33:V.3105, Table 1 organic constituents; and baghouse bags used to capture metallic dusts emitted by steel manufacturing contain recoverable levels of metal;

D.3.a.ii. - 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 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:821, 835 (September 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1466 (August 1999), LR 27:297 (March 2001), LR 27:712 (May 2001), LR 29:323 (March 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 32:607 (April 2006), LR 34:628 (April 2008).

§3005. Permit Standards for Burners

A. - A.2.e. ...

f. releases from solid waste management units, LAC 33:V.3301 and 3322;

A.2.g. - E.5.a.iv. ...

v. such other operating requirements as are necessary to ensure that the particulate standard in LAC 33:V.3011.A is met.

5.b. - 6.b.ii.(a). ...

(b). the rolling average for the selected averaging period is defined as the arithmetic mean of one-hour block averages for the averaging period. A one-hour block average is the arithmetic mean of the one-minute averages recorded during the 60-minute period beginning at one minute after the beginning of the preceding clock hour; and

E.6.b.iii. - I. ...

[NOTE: 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 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:822 (September 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2483 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2463 (October 2005), LR 33:2113 (October 2007), LR 34:628 (April 2008).

§3007. Interim Status Standards for Burners

A. - B.5.b. ...

i. The feed rate of each metal shall be limited at any time to 10 times the feed rate that would be allowed on an hourly rolling average basis.

B.5.b.ii. - C.1.g. ...

h. maximum flue gas temperature entering a particulate matter control device (unless complying with Tier I or Adjusted Tier I metals feed rate screening limits under LAC 33:V.3013.B or E and the total chlorine and chloride feed rate screening limits under LAC 33:V.3015.B.1 or E);

i. for systems using wet scrubbers, including wet ionizing scrubbers (unless complying with the Tier I or Adjusted Tier I metals feed rate screening limits under LAC 33:V.3013.B or E and the total chlorine and chloride feed rate screening limits under LAC 33:V.3015.B.1 or E):

1.i.i. - 4.d.iii. ...

(a). the feed rate of each metal shall be limited at any time to 10 times the feed rate that would be allowed on an hourly rolling average basis;

C.4.d.iii.(b). - L. ...

[NOTE: 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 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 22:822 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1740 (September 1998), amended by the Office of

Environmental Assessment, Environmental Planning Division, LR 26:2483 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2463 (October 2005), LR 33:2114 (October 2007), LR 34:629 (April 2008).

Chapter 31. Incinerators

§3105. Applicability

A. ...

B. Integration of the MACT Standards

1. Except as provided by Paragraphs B.2-5 of this Section, the standards of this Subsection do not apply to a new hazardous waste incineration unit that becomes subject to RCRA permit requirements after October 12, 2005, and no longer apply when an owner or operator of an existing hazardous waste incineration unit demonstrates compliance with the maximum achievable control technology (MACT) requirements of 40 CFR Part 63, Subpart EEE, as incorporated by reference at LAC 33:III.5122, by conducting a comprehensive performance test and submitting to the administrative authority a notification of compliance under 40 CFR 63.1207(j) and 63.1210(d) documenting compliance with the requirements of 40 CFR Part 63, Subpart EEE. Nevertheless, even after this demonstration of compliance with the MACT standards, RCRA permit conditions that were based on the standards of LAC 33:V.Chapters 15, 17, 18, 19, 20, 21, 23, 24, 25, 26, 27, 28, 29, 31, 32, 33, 35, and 37 will continue to be in effect until they are removed from the permit or the permit is terminated or revoked, unless the permit expressly provides otherwise.

2. ...

3. The particulate matter standard of LAC 33:V.3111.A.4 remains in effect for incinerators that elect to comply with the alternative to the particulate matter standard of 40 CFR 63.1206(b)(14) and 63.1219(e).

B.4. - E. ...

Table 1. Hazardous Constituents			
Common Name	Chemical Abstracts Name	Chemical Abstracts Number	Hazardous Waste Number
* * *			
[See Prior Text in A2213 – Allyl alcohol]			
Allyl chloride	1-Propene, 3-chloro	107-05-1	P005
* * *			
[See Prior Text in Aluminum phosphide – Benzenearsonic acid]			
Benzidine	[1,1'-Biphenyl]-4,4'-diamine	92-87-5	U021
* * *			
[See Prior Text in Benzo[b]fluoranthene – 1,1-Dichloroethylene]			
1,2-Dichloroethylene	Ethene, 1,2-dichloro-, (E)-	156-60-5	U079
* * *			
[See Prior Text in Dichloroethyl ether – Kepone]			
Lasiocarpine	2-Butenoic acid, 2-methyl-,7-[[2,3-dihydroxy-2-(1-methoxyethyl)-3-methyl-1-oxobutoxy]methyl]-2,3,5,7a-tetrahydro-1H-pyrrolizin-1-yl ester, [1S-[1alpha(Z),7(2S*,3R*),7aalpha]-	303-34-4	U143
* * *			
[See Prior Text in Lead – 2-Nitropropane]			
Nitrosamines, N.O.S. ¹		35576-91-1	
* * *			
[See Prior Text in N-Nitrosodi-n-butylamine – Ziram]			

Footnote 1. ...

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 24:318 (February 1998), LR 24:681 (April 1998), LR 24:1741 (September 1998), LR 25:479 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:301 (March 2001), LR 28:1004 (May 2002), LR 29:323 (March 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 32:830 (May 2006), LR 34:629 (April 2008).

§3115. Incinerator Permits for New or Modified Facilities

A. - D. ...

E. When an owner or operator of a hazardous waste incineration unit becomes subject to RCRA permit requirements after October 12, 2005, or when an owner or operator of an existing hazardous waste incineration unit demonstrates compliance with the air emission standards and limitations in 40 CFR Part 63, Subpart EEE, as incorporated by reference at LAC 33:III.5122 (i.e., by conducting a comprehensive performance test and submitting a notification of compliance under 40 CFR 63.1207(j) and 63.1210(d) documenting compliance with all applicable requirements of 40 CFR Part 63, Subpart EEE), the requirements of this Section do not apply, except those provisions the administrative authority determines are necessary to ensure compliance with LAC 33:V.3117.A and C if the owner or operator elects to comply with LAC 33:V.2001.A.1.a to minimize emissions of toxic compounds from startup, shutdown, and malfunction events. Nevertheless, the administrative authority may apply the provisions of this Section, on a case-by-case basis, for purposes of information collection in accordance with LAC 33:V.303.Q-R and 311.E-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 16:614 (July 1990), LR 18:1256 (November 1992), LR 22:828, 835 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:683 (April 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2484 (November 2000), LR 27:302 (March 2001), LR 29:324 (March 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2464 (October 2005), LR 33:2115 (October 2007), LR 34:630 (April 2008).

Chapter 33. Groundwater Protection

§3315. General Groundwater Monitoring Requirements

The owner or operator must comply with the following requirements for any ground water monitoring program developed to satisfy LAC 33:V.3317, 3319, or 3321.

A. The groundwater monitoring system must consist of a sufficient number of wells, installed at appropriate locations and depths, to yield groundwater samples from the uppermost aquifer that fulfill the following requirements.

1. The samples must represent the quality of background groundwater that has not been affected by leakage from a regulated unit. A determination of background groundwater quality may include sampling of wells that are not hydraulically upgradient of the waste management area where:

A.1.a. - 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 10:200 (March 1984), amended LR 10:496 (July 1984), LR 16:614 (July 1990), amended by the Office of the Secretary, Legal Affairs Division LR 34:630 (April 2008).

§3319. Compliance Monitoring Program

An owner or operator required to establish a compliance monitoring program under this Chapter must, at a minimum, discharge the following responsibilities.

A. - H.1. ...

2. submit to the Office of Environmental Services an application for a permit modification to establish a corrective action program meeting the requirements of LAC 33:V.3321 within 180 days, or within 90 days if an engineering feasibility study has been previously submitted to the administrative authority under LAC 33:V.3317.G.5. The application must at a minimum include the following information:

H.2.a. - J. ...

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 16:399 (May 1990), LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2485 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2464 (October 2005), LR 33:2115 (October 2007), LR 34:630 (April 2008).

Chapter 35. Closure and Post-Closure

Subchapter A. Closure Requirements

§3517. Certification of Closure

A. ...

B. Survey Plat. No later than the submission of the certification of closure of each hazardous waste disposal unit, the owner or operator must submit to the local zoning authority, or the authority with jurisdiction over local land use, and to the Office of Environmental Services a survey plat indicating the location and dimensions of landfill cells or other hazardous waste disposal units with respect to permanently surveyed benchmarks. This plat must be prepared and certified by a professional land surveyor. The plat filed with the local zoning authority, or the authority with jurisdiction over local land use, must contain a note, prominently displayed, that states the owner's or operator's obligation to restrict disturbance of the hazardous waste disposal unit in accordance with the applicable regulations of this Chapter.

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 13:433 (August 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2487 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2466 (October 2005), LR 33:2117 (October 2007), LR 34:630 (April 2008).

Subchapter B. Post-Closure Requirements

§3523. Post-Closure Plan, Amendment of Plan

A. - B.4. ...

C. Until final closure of the facility, a copy of the approved post-closure plan must be furnished to the administrative authority upon request, including request by mail. After final closure has been certified, the person or

office specified in Paragraph B.3 of this Section must keep the approved post-closure plan during the remainder of the post-closure period.

D. - E. ...

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 13:433 (August 1987), LR 14:791 (November 1988), LR 16:399 (May 1990), LR 16:614 (July 1990), LR 18:1256 (November 1992), amended by the Office of Waste Services, Hazardous Waste Division, LR 25:480 (March 1999), repromulgated LR 25:856 (May 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2487 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2466 (October 2005), LR 33:2117 (October 2007), LR 34:631 (April 2008).

Chapter 37. Financial Requirements

Subchapter F. Financial and Insurance Instruments

§3719. Wording of the Instruments

A. - G.PART A.ALTERNATIVE II, 10. ...

[Fill in Part B if you are using the financial test to demonstrate assurance of both liability coverage and closure or post-closure care.]

PART B. CLOSURE OR POST-CLOSURE CARE AND LIABILITY COVERAGE

[Fill in Alternative I if the first criteria of LAC 33:V.3707.F.1, 3711.F.1, and 3715.F.1, or if the first criteria of LAC 33:V.4403.E.1 or 4407.E.1 and 4411.F.1, are used. Fill in Alternative II if the second criteria of LAC 33:V.3707.F.1, 3711.F.1, and 3715.F.1, or if the second criteria of LAC 33:V.4403.E.1 or 4407.E.1 and 4411.F.1, are used.]

ALTERNATIVE I

[See Prior Text in 1 - 9]

*10. The sum of net income plus depreciation, depletion, and amortization: \$ _____

[See Prior Text in 11 - 19]

G.PART B.ALTERNATIVE II. - M.1.Section 8.b. ...

c. to register any securities held in the Fund in its own name or in the name of a nominee and to hold any security in bearer form or in book entry, or to combine certificates representing such securities with certificates of the same issue held by the Trustee in other fiduciary capacities, or to deposit or arrange for the deposit of such securities in a qualified central depository even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee of such depository with other securities deposited therein by another person, or to deposit or arrange for the deposit of any securities issued by the United States Government, or any agency or instrumentality thereof, with a Federal Reserve bank, but the books and records of the Trustee shall at all times show that all such securities are part of the Fund;

M.1.Section 8.d. - N.1.Section 3.e.ii. ...

iii. property loaned by [insert Grantor];

N.1.Section 3.e.iv. - N.2.Certification. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180.

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 11:686 (July 1985), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 16:47 (January 1990), LR 18:723 (July 1992), LR 21:266 (March 1995), LR 22:835 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:1514 (November 1997), repromulgated LR 23:1684 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2493 (November 2000), amended by the Office of Environmental Assessment, LR 30:2023 (September 2004), LR 31:1573 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2472 (October 2005), LR 33:1626 (August 2007), LR 33:2123 (October 2007), LR 34:631 (April 2008).

Chapter 40. Used Oil

§4001. Definitions

Terms that are defined in LAC 33:V.109 have the same meanings when used in this Chapter.

Petroleum Refining Facility—an establishment primarily engaged in producing gasoline, kerosene, distillate fuel oils, residual fuel oils, and lubricants, through fractionation, straight distillation of crude oil, redistillation of unfinished petroleum derivatives, cracking, or other processes (i.e., facilities classified as SIC 2911).

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 21:266 (March 1995), amended LR 22:836 (September 1996), amended by the Office of the Secretary, Legal Affairs Division, LR 34:631 (April 2008).

Subchapter A. Materials Regulated as Used Oil

§4003. Applicability

This Section identifies those materials that are subject to regulation as used oil under this Chapter. This Section also identifies some materials that are not subject to regulation as used oil under this Chapter and indicates whether these materials may be subject to regulation as hazardous waste under this Subpart.

- A. ...
- B. Mixtures of Used Oil and Hazardous Waste
 - 1. Listed Hazardous Waste
 - a. Mixtures of used oil and hazardous waste that are listed in LAC 33:V.4901 are subject to regulation as hazardous waste under LAC 33:V.Subpart 1, rather than as used oil under LAC 33:V.Chapter 40.
 - b. - b.ii. ...
 - 2. Characteristic Hazardous Waste. Mixtures of used oil and hazardous waste that solely exhibit one or more of the hazardous waste characteristics identified in LAC 33:V.4903 and mixtures of used oil and hazardous waste that are listed in LAC 33:V.4901 solely because they exhibit one or more of the characteristics of hazardous waste identified in LAC 33:V.4903 are subject to:

B.2.a. - I. ...
 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 21:266 (March 1995), amended LR 22:828, 836 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1108 (June 1998), LR 25:481 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:713 (May 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2540 (October 2005), LR 34:631 (April 2008).

§4005. Used Oil Specifications

A. Used oil burned for energy recovery and any fuel produced from used oil by processing, blending, or other treatment is subject to regulation under this Chapter unless it is shown not to exceed any of the allowable levels of the constituents and properties shown in Table 1 of this Section. Once used oil that is to be burned for energy recovery has been shown not to exceed any allowable levels and the person making that showing complies with LAC 33:V.4081, 4083, and 4085.B, the used oil is no longer subject to this Chapter.

Table 1 Used Oil Not Exceeding Any Allowable Level Shown Below Is Not Subject to LAC 33:V.Chapter 40 When Burned for Energy Recovery ¹	
Constituent/Property	Allowable Level
Arsenic	5 ppm maximum
Cadmium	2 ppm maximum
Chromium	10 ppm maximum
Lead	100 ppm maximum
Flash Point	100°F minimum
Total Halogens	4,000 ppm maximum ²

¹The allowable level does not apply to mixtures of used oil and hazardous waste that continue to be regulated as hazardous waste (see LAC 33:V.4003.B).

²Used oil containing more than 1,000 ppm total halogens is presumed to be a hazardous waste under the rebuttable presumption provided under LAC 33:V.4003.B.1. Such used oil is subject to LAC 33:V.Chapter 30 rather than LAC 33:V.Chapter 40 when burned for energy recovery unless the presumption of mixing can be successfully rebutted.

[Note: Applicable standards for the burning of used oil containing PCBs are imposed by 40 CFR 761.20(e).]

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 21:266 (March 1995), amended by the Office of the Secretary, Legal Affairs Division, LR 34:632 (April 2008).

Subchapter E. Standards for Used Oil Processors and Re-Refiners

§4045. General Facility Standards

- A. - B.6.a.ii. ...
- b. Whenever there is a release, fire, or explosion, the emergency coordinator must immediately identify the character, exact source, amount, and the areal extent of any released materials. He may do this by observation, review of facility records or manifests, and, if necessary, chemical analyses.
- c. Concurrently, the emergency coordinator must assess possible hazards to human health or the environment that may result from the release, fire, or explosion. This assessment must consider both direct and indirect effects of the release, fire, or explosion (e.g., the effects of any toxic, irritating, or asphyxiating gases that are generated or the effects of any hazardous surface water run-offs from water or chemical agents used to control fire and heat-induced explosions).
- d. - i.vii. ...

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 21:266 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2497 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2473 (October 2005), LR 33:2125 (October 2007), LR 34:632 (April 2008).

Subchapter F. Standards for Used Oil Burners That Burn Off-Specification Used Oil for Energy Recovery

§4067. Rebuttable Presumption for Used Oil

- A. - B.2. ...
- 3. if the used oil has been received from a processor/re-refiner subject to regulation under LAC 33:V.Chapter 40.Subchapter E, using information provided by the processor/re-refiner.

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 21:266 (March 1995), amended LR 22:828 (September 1996), amended by the Office of the Secretary, Legal Affairs Division, LR 34:632 (April 2008).

Chapter 42. Conditional Exemption for Low-Level Mixed Waste Storage, Treatment, Transportation, and Disposal

Chapter 43. Interim Status

§4301. Purpose and Applicability

- A. - C.4. ...
- 5. the owner and operator of a facility managing recyclable materials described in LAC 33:V.4105.A.1-3, except to the extent they are referred to in LAC 33:V.Chapter 40 or LAC 33:V.4139, 4141, 4143, or 4145;
- C.6. - I. ...

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 13:84 (February 1987), LR 16:220 (March 1990), LR 17:362 (April 1991), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), amended by

the Office of Waste Services, Hazardous Waste Division, LR 24:1743 (September 1998), LR 25:482 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1466 (August 1999), LR 26:2498 (November 2000), LR 27:713 (May 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2474 (October 2005), LR 31:3121 (December 2005), LR 32:612 (April 2006), LR 33:2126 (October 2007), LR 34:632 (April 2008).

Subchapter D. Manifest System, Recordkeeping, and Reporting

§4357. Operating Record

A. - B.2. ...

3. the estimated or manifest-reported weight, or volume and density, where applicable, in one of the units of measure specified in Table 1 of this Section:

Table 1. Units For Reporting	
Unit of Measure	Code ¹

[See Prior Text in Gallons – British thermal units per Hour]	
Pounds	P
Short tons	T
Kilograms	K
Tons	M
¹ Single digit symbols are used here for data processing purposes.	

4. the method(s) (by handling code(s) as specified in Table 2 of this Section) and date(s) of treatment, storage, or disposal:

Table 2. Handling Codes for Treatment, Storage, and Disposal Methods	
Enter the handling code(s) listed below that most closely represents the technique(s) used at the facility to treat, store, or dispose of each quantity of hazardous waste received.	
Storage	

[See Prior Text in S01 – S99]	
Treatment	
Thermal Treatment	

[See Prior Text in T06 – T74]	
T75	Trickling filter

[See Prior Text in T76 – T94]	
Disposal	

[See Prior Text in D79 – D99]	
Miscellaneous	

[See Prior Text in X01 – X04]	
X99	Other (specify)

5. - 16. ...

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 15:378 (May 1989), LR 16:220 (March 1990), LR 17:658 (July 1991), LR 18:723 (July 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 22:837 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1744 (September 1998), LR 25:484 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1803 (October 1999), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1626 (August 2007), LR 34:633 (April 2008).

Subchapter E. Groundwater Monitoring

§4367. Applicability

Facilities that have interim status must comply with this Subchapter in lieu of LAC 33:V.Chapter 33.

A. - B. ...

C. If an owner or operator assumes (or knows) that groundwater monitoring of indicator parameters, in accordance with LAC 33:V.4369 and 4371, would show statistically significant increases (or decreases in the case of pH) when evaluated under LAC 33:V.4373.B, he may install, operate, and maintain an alternate groundwater monitoring system (other than the one described in LAC 33:V.4371 and 4373). If the owner or operator decides to use an alternate groundwater monitoring system he must:

C.1. - E.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), amended by the Office of Waste Services, Hazardous Waste Division, LR 25:484 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2499 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2126 (October 2007), LR 34:633 (April 2008).

Subchapter F. Closure and Post-Closure

§4379. Closure Performance Standard

A. - A.2. ...

3. complies with the closure requirements of these regulations including, but not limited to, LAC 33:V.4442, 4457, 4475, 4489, 4501, 4521, 4531, 4543, and 4705.

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 10:200 (March 1984), amended LR 13:433 (August 1987), LR 15:181 (March 1989), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1744 (September 1998), amended by the Office of the Secretary, LR 24:2248 (December 1998), amended by the Office of the Secretary, Legal Affairs Division, LR 34:633 (April 2008).

§4381. Closure Plan; Amendment of Plan

A. - B.4. ...

5. a detailed description of other activities necessary during the partial and final closure periods to ensure that all partial closures and final closure satisfy the closure performance standards, including, but not limited to, groundwater monitoring, leachate collection, and run-on and run-off control; and

B.6. - E. ...

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 13:433 (August 1987), LR 16:614 (July 1990), LR 17:362 (April 1991), LR 17:478 (May 1991), LR 18:723 (July 1992), LR 18:1375 (December 1992), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 25:485 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2500 (November 2000), amended by the Office of the Secretary,

Legal Affairs Division, LR 31:2475 (October 2005), LR 33:2127 (October 2007), LR 34:633 (April 2008).

Subchapter G. Financial Requirements

§4401. Cost Estimate for Closure

A. The owner or operator must have a detailed written estimate, in current dollars, of the cost of closing the facility in accordance with the requirements in LAC 33:V.4379, 4381, 4383, 4385, and 4387 and applicable closure requirements in LAC 33:V.4442, 4457, 4475, 4489, 4501, 4521, 4531, 4543, and 4705.

A.1. - 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 10:200 (March 1984), amended LR 13:433 (August 1987), LR 17:478 (May 1991), LR 18:723 (July 1992), LR 21:266 (March 1995), amended by the Office of the Secretary, Legal Affairs Division, LR 34:634 (April 2008).

Subchapter I. Tanks

§4439. General Operating Requirements

A. - B. ...

1. spill prevention controls (e.g., check valves, dry disconnect couplings);

B.2. - 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 10:200 (March 1984), amended LR 13:651 (November 1987), amended by the Office of the Secretary, Legal Affairs Division, LR 34:634 (April 2008).

Subchapter J. Surface Impoundments

§4457. Closure and Post-Closure

A. - C.1. ...

2. maintain and monitor the leak detection system in accordance with LAC 33:V.2903.J.3.d and 4 and 4455.B and comply with all other applicable leak detection system requirements of this Chapter;

3. - 4. ...

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 15:470 (June 1989), LR 18:723 (July 1992), LR 21:266 (March 1995), amended by the Office of the Secretary, LR 24:2249 (December 1998), amended by the Office of the Secretary, Legal Affairs Division, LR 34:634 (April 2008).

Subchapter M. Landfills

§4497. Action Leakage Rate

A. ...

B. The administrative authority shall approve an action leakage rate for landfill units subject to LAC 33:V.4512.A. The action leakage rate is the maximum design flow rate that the leak detection system (LDS) can remove without the fluid head on the bottom liner exceeding 1 foot. The action leakage rate must include an adequate safety margin to allow for uncertainties in the design (e.g., slope, hydraulic conductivity, thickness of drainage material), construction, operation, and location of the LDS, waste and leachate characteristics, likelihood and amounts of other sources of liquids in the LDS, and proposed response actions (e.g., the action leakage rate must consider decreases in the flow capacity of the system over time resulting from siltation and

clogging, rib layover and creep of synthetic components of the system, overburden pressures, etc.).

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 10:200 (March 1984), amended LR 21:266 (March 1995), amended by the Office of the Secretary, Legal Affairs Division, LR 34:634 (April 2008).

§4507. Special Requirements for Liquid Waste

A. - F.1.a. ...

b. high molecular weight synthetic polymers (e.g., polyethylene, high-density polyethylene (HDPE), polypropylene, polystyrene, polyurethane, polyacrylate, polynorborene, polyisobutylene, ground synthetic rubber, cross-linked allylstyrene, and tertiary butyl copolymers). This does not include polymers derived from biological material or polymers specifically designed to be degradable; or

F.1.c. - G.1. ...

2. placement in such owner's or operator's landfill will not present a risk of contamination of any *underground source of drinking water*, as 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, 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), amended by the Office of the Secretary, Legal Affairs Division, LR 34:634 (April 2008).

§4512. Design and Operating Requirements

A. The owner or operator of each new landfill unit on which construction commences after January 29, 1992, each lateral expansion of a landfill unit on which construction commences after July 29, 1992, and each replacement of an existing landfill unit that is to commence reuse after July 29, 1992, must install two or more liners and a leachate collection and removal system above and between such liners and operate the leachate collection and removal systems, in accordance with LAC 33:V.2503.L, unless exempted by Subsection C, D, or E of this Section. The term *construction commences* is defined in LAC 33:V.109. *Existing Facilities*.

B. - C.2. ...

D. The double liner requirement set forth in Subsection A of this Section may be waived by the administrative authority for any monofill, if it meets the requirements specified in Paragraphs D.1 and 2 of this Section.

1. The monofill contains only hazardous wastes from foundry furnace emission controls or metal casting molding sand, and such wastes do not contain constituents that would render the wastes hazardous for reasons other than the toxicity characteristics in LAC 33:V.4903.E, with EPA Hazardous Waste Numbers D004-D017.

D.2. - I. ...

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 16:220 (March 1990), amended LR 18:723 (July 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), amended by the Office of Environmental

Assessment, Environmental Planning Division, LR 26:2509 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2483 (October 2005), LR 33:2135 (October 2007), LR 34:634 (April 2008).

Subchapter N. Incinerators

§4513. Applicability

A. ...

B. Integration of the MACT Standards

1. Except as provided by Paragraphs B.2 and 3 of this Section, the standards of this Chapter no longer apply when an owner or operator demonstrates compliance with the maximum achievable control technology (MACT) requirements of 40 CFR Part 63, Subpart EEE, as incorporated by reference at LAC 33:III.5122, by conducting a comprehensive performance test and submitting to the administrative authority a notification of compliance under 40 CFR 63.1207(j) and 63.1210(d) documenting compliance with the requirements of 40 CFR Part 63, Subpart EEE.

B.2. - C.4. ...

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 16:220 (March 1990), LR 18:1375 (December 1992), LR 20:1000 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:303 (March 2001), LR 29:324 (March 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 34:635 (April 2008).

Subchapter T. Containment Buildings

§4701. Applicability

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

4. has controls as needed to prevent fugitive dust emissions; and

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 21:266 (March 1995), amended LR 21:944 (September 1995), amended by the Office of the Secretary, Legal Affairs Division, LR 34:635 (April 2008).

§4703. Design and Operating Standards

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

c. the secondary containment system must be constructed of materials that are chemically resistant to the waste and liquids managed in the containment building and of sufficient strength and thickness to prevent collapse under the pressure exerted by overlaying materials and by any equipment used in the containment building. (Containment buildings can serve as secondary containment systems for tanks placed within the building under certain conditions. A containment building can serve as an external liner system for a tank, provided it meets the requirements of LAC 33:V.4437.E.1. In addition, the containment building must meet the requirements of LAC 33:V.4437.B and C to be considered an acceptable secondary containment system for a tank.); and

B.4. - C.2. ...

3. throughout the active life of the containment building, if the owner or operator detects a condition that could lead to or has caused a release of hazardous waste,

repair the condition promptly, in accordance with the following procedures:

C.3.a. - E. ...

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 21:266 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2509 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2136 (October 2007), LR 34:635 (April 2008).

Chapter 49. Lists of Hazardous Wastes

[Comment: Chapter 49 is divided into two sections: Category I Hazardous Wastes, which consist of Hazardous Wastes from nonspecific and specific sources (F and K wastes), Acute Hazardous Wastes (P wastes), and Toxic Wastes (U wastes) (LAC 33:V.4901); and Category II Hazardous Wastes, which consist of wastes that are ignitable, corrosive, reactive, or toxic (LAC 33:V.4903).]

§4901. Category I Hazardous Wastes

A. - A.2. ...

B. Hazardous Wastes from Nonspecific Sources

1. The following solid wastes are listed hazardous wastes from nonspecific sources unless they are excluded in accordance with LAC 33:V.105.H.

[NOTE: EPA, in January 1985, added new listed hazardous wastes.]

Table 1. Hazardous Wastes from Nonspecific Sources		
Industry and EPA Hazardous Waste Number	Hazard Code	Hazardous Waste
* * *		
[See Prior Text]		

* (I,T) should be used to specify mixtures that are ignitable and contain toxic constituents.

B.2. - D.4.Comment. ...

E. The commercial chemical products, manufacturing chemical intermediates, or off-specification commercial chemical products or manufacturing chemical intermediates referred to in Paragraphs D.1-4 of this Section are identified as acute hazardous wastes (H) and are subject to the small quantity exclusions defined in LAC 33:V.108.E. These wastes and their corresponding EPA Hazardous Waste Numbers are listed in Table 3 of this Section.

[Comment: For the convenience of the regulated community the primary hazardous properties of these materials have been indicated by the letters T (Toxicity) and R (Reactivity). Absence of a letter indicates that the compound is listed only for acute toxicity. Wastes are first listed in alphabetical order by substance and then listed again in numerical order by EPA Hazardous Waste Number.]

Table 3. Acute Hazardous Wastes (Alphabetical Order by Substance)		
EPA Hazardous Waste Number	Chemical Abstract Number	Hazardous Waste (Substance)
* * *		
[See Prior Text in Acetaldehyde, chloro- - Brucine]		
P045	39196-18-4	2-Butanone, 3,3-dimethyl-1-(methylthio)-, O- [(methylamino) carbonyl] oxime
* * *		
[See Prior Text in Calcium cyanide - Carbamic acid, [(dibutylamino)-thio]methyl-, 2,3-dihydro-2,2-dimethyl-7-benzofuranyl ester]		

Table 3. Acute Hazardous Wastes (Alphabetical Order by Substance)		
EPA Hazardous Waste Number	Chemical Abstract Number	Hazardous Waste (Substance)
P191	644-64-4	Carbamic acid, dimethyl-, 1-[(dimethylamino)carbonyl]-5-methyl-1H-pyrazol-3-yl ester
P192	119-38-0	Carbamic acid, dimethyl-, 3-methyl-1-(1-methylethyl)-1H-pyrazol-5-yl ester ***
[See Prior Text in Carbamic acid, methyl-, 3-methylphenyl ester – Diethyl-p-nitrophenyl phosphate]		
P040	297-97-2	O,O-Diethyl O-pyrazinyl phosphorothioate ***
[See Prior Text in Diisopropylfluorophosphate (DFP) – Ethanedinitrile]		
P194	23135-22-0	Ethanimidothioic acid, 2-(dimethylamino)-N-[[[(methylamino) carbonyl]oxy]-2-oxo-, methyl ester ***
[See Prior Text in Ethanimidothioic acid, N-[[[(methylamino)carbonyl]oxy]-, methyl ester – Isolan]		
P202	64-00-6	3-Isopropylphenyl N-methylcarbamate ***
[See Prior Text in 3 (2H)-Isoxazolone, 5-(aminomethyl)- – Methanethiol, trichloro-]		
P198	23422-53-9	Methanimidamide, N,N-dimethyl-N'-[3-[[[(methylamino)-carbonyl]oxy]phenyl]-monohydrochloride
P197	17702-57-7	Methanimidamide, N,N-dimethyl-N'-[2-methyl-4-[[[(methylamino)carbonyl]oxy]phenyl]- ***
[See Prior Text in 6, 9-Methano-2,4,3-benzo-dioxathiepin, 6,7,8,9,10,10-hexachloro-1,5,5a,6,9,9a- hexahydro-,3-oxide – Phenol, (3,5-dimethyl-4-(methylthio)-, methylcarbamate]		
P128	315-18-4	Phenol, 4-(dimethylamino)-3,5-dimethyl-, methylcarbamate (ester) ***
[See Prior Text in Phenol, 2,4-dinitro- – Phosphoric acid, diethyl 4-nitrophenyl ester]		
P039	298-04-4	Phosphorodithioic acid, O,O- diethyl S-[2-(ethylthio)ethyl] ester ***
[See Prior Text in Phosphorodithioic acid, O, O-diethyl S-[(ethylthio)methyl] ester – Tetraethyldithiopyrophosphate]		
P110	78-00-2	Tetraethyl lead ***
[See Prior Text in Tetraethyl pyrophosphate – Ziram]		
¹ CAS Number given for parent compound only.		

Table 3. Acute Hazardous Wastes (Numerical Order by EPA Hazardous Waste Number)		
EPA Hazardous Waste Number	Chemical Abstract Number	Hazardous Waste (Substance)
P001	¹ 81-81-2	2H-1-Benzopyran-2-one, 4-hydroxy- 3-(3-oxo-1-phenylbutyl)-, and salts, when present at concentrations greater than 0.3 percent
P001	¹ 81-81-2	Warfarin, and salts, when present at concentrations greater than 0.3 percent
P002	591-08-2	Acetamide, N-(aminothioxomethyl)-
P002	591-08-2	1-Acetyl-2-thiourea
P003	107-02-8	Acrolein
P003	107-02-8	2-Propenal
P004	309-00-2	Aldrin
P004	309-00-2	1,4,5,8-Dimethanonaphthalene, 1,2,3,4,10,10- hexachloro- 1,4,4a,5,8,8a,- hexahydro-, (1alpha, 4alpha, 4abeta, 5alpha, 8alpha, 8abeta)-
P005	107-18-6	Allyl alcohol

Table 3. Acute Hazardous Wastes (Numerical Order by EPA Hazardous Waste Number)		
EPA Hazardous Waste Number	Chemical Abstract Number	Hazardous Waste (Substance)
P005	107-18-6	2-Propen-1-ol
P006	20859-73-8	Aluminum phosphide (R,T)
P007	2763-96-4	5-(aminomethyl)-3-isoxazolol
P007	2763-96-4	3 (2H)-Isoxazolone, 5-(aminomethyl)-
P008	504-24-5	4-Aminopyridine
P008	504-24-5	4-Pyridinamine
P009	131-74-8	Ammonium picrate (R)
P009	131-74-8	Phenol, 2,4,6-trinitro-, ammonium salt (R)
P010	7778-39-4	Arsenic acid H ₃ AsO ₄
P011	1303-28-2	Arsenic oxide As ₂ O ₅
P011	1303-28-2	Arsenic pentoxide
P012	1327-53-3	Arsenic oxide As ₂ O ₃
P012	1327-53-3	Arsenic trioxide
P013	542-62-1	Barium cyanide
P014	108-98-5	Benzenethiol
P014	108-98-5	Thiophenol
P015	7440-41-7	Beryllium Powder
P016	542-88-1	Dichloromethyl ether
P016	542-88-1	Methane, oxybis[chloro-
P017	598-31-2	Bromoacetone
P017	598-31-2	2-Propanone, 1-bromo-
P018	357-57-3	Brucine
P018	357-57-3	Strychnidin-10-one, 2,3-dimethoxy-
P020	88-85-7	Dinoseb
P020	88-85-7	Phenol, 2-(1-methylpropyl)-4,6-dinitro-
P021	592-01-8	Calcium cyanide
P021	592-01-8	Calcium cyanide Ca(CN) ₂
P022	75-15-0	Carbon disulfide
P023	107-20-0	Acetaldehyde, chloro-
P023	107-20-0	Chloroacetaldehyde
P024	106-47-8	Benzenamine, 4-chloro-
P024	106-47-8	p-Chloroaniline
P026	5344-82-1	1-(o-Chlorophenyl)thiourea
P026	5344-82-1	Thiourea, (2-chlorophenyl)
P027	542-76-7	3-Chloropropionitrile
P027	542-76-7	Propanenitrile, 3-chloro-
P028	100-44-7	Benzene, (chloromethyl)-
P028	100-44-7	Benzyl chloride
P029	544-92-3	Copper cyanide
P029	544-92-3	Copper cyanide Cu(CN)
P030		Cyanides (soluble cyanide salts), not otherwise specified
P031	460-19-5	Cyanogen
P031	460-19-5	Ethanedinitrile
P033	506-77-4	Cyanogen chloride
P033	506-77-4	Cyanogen chloride (CN)Cl
P034	131-89-5	2-Cyclohexyl-4,6-dinitrophenol
P034	131-89-5	Phenol, 2-cyclohexyl-4,6-dinitro-
P036	696-28-6	Arsonous dichloride, phenyl-
P036	696-28-6	Dichlorophenylarsine
P037	60-57-1	Dieldrin
P037	60-57-1	2,7:3,6-Dimethanonaphth [2,3-b]oxirene,3,4,5,6,9,9- hexachloro-1a,2,2a,3,6,6a,7,7a- octahydro-, (1alpha,2beta,2alpha, 3beta,6beta,6alpha,7beta, 7alpha)-
P038	692-42-2	Arsine, diethyl-
P038	692-42-2	Diethylarsine
P039	298-04-4	Disulfoton
P039	298-04-4	Phosphorodithioic acid, O,O- diethyl S-[2-(ethylthio)ethyl] ester
P040	297-97-2	O,O-Diethyl O-pyrazinyl phosphorothioate
P040	297-97-2	Phosphorothioic acid, O,O-diethyl O-pyrazinyl ester
P041	311-45-5	Diethyl-p-nitrophenyl phosphate

Table 3. Acute Hazardous Wastes (Numerical Order by EPA Hazardous Waste Number)		
EPA Hazardous Waste Number	Chemical Abstract Number	Hazardous Waste (Substance)
P041	311-45-5	Phosphoric acid, diethyl 4-nitrophenyl ester
P042	51-43-4	1, 2-Benzenediol, 4-[1- hydroxy-2-(methylamino) ethyl], (R)-
P042	51-43-4	Epinephrine
P043	55-91-4	Diisopropylfluorophosphate (DFP)
P043	55-91-4	Phosphorofluoridic acid, bis (1-methylethyl) ester
P044	60-51-5	Dimethoate
P044	60-51-5	Phosphorodithioic acid, O, O-dimethyl S-[2-(methylamino)- 2-oxoethyl] ester
P045	39196-18-4	2-Butanone, 3,3-dimethyl-1-(methylthio)-, O- [(methylamino) carbonyl] oxime
P045	39196-18-4	Thiofanox
P046	122-09-8	Benzeneethanamine, alpha, alpha-dimethyl-
P046	122-09-8	alpha, alpha-Dimethylphenethylamine
P047	¹ 534-52-1	4,6-Dinitro-o-cresol, and salts
P047	¹ 534-52-1	Phenol, 2-methyl-4,6-dinitro-, and salts
P048	51-28-5	2,4-Dinitrophenol
P048	51-28-5	Phenol, 2,4-dinitro-
P049	541-53-7	Dithiobiuret
P049	541-53-7	Thioimidodicarbonic diamide [(H ₂ N)C(S)] ₂ NH
P050	115-29-7	Endosulfan
P050	115-29-7	6, 9-Methano-2,4,3-benzo-dioxathiepin, 6,7,8,9,10,10-hexachloro-1,5,6a,6,9,9a-hexahydro-,3-oxide
P051	¹ 72-20-8	2,7:3,6-Dimethanonaphth [2,3-b] oxirene, 3,4,5,6,9,9-hexachloro-1a,2,2a,3,6,6a,7,7a- octahydro-, (1alpha,2beta,2beta, 3alpha,6alpha,6beta,7beta, 7alpha)-, and metabolites
P051	72-20-8	Endrin
P051	72-20-8	Endrin, and metabolites
P054	151-56-4	Aziridine
P054	151-56-4	Ethyleneimine
P056	7782-41-4	Fluorine
P057	640-19-7	Acetamide, 2-fluoro-
P057	640-19-7	Fluoroacetamide
P058	62-74-8	Acetic acid, fluoro-, sodium salt
P058	62-74-8	Fluoroacetic acid, sodium salt
P059	76-44-8	Heptachlor
P059	76-44-8	4,7-Methano-1H-indene,1,4,5,6,7, 8,8-heptachloro-3a,4,7,7a-tetrahydro-
P060	465-73-6	1,4,5,8-Dimethanonaphthalene, 1,2,3,4,10,10- hexachloro- 1,4,4a,5,8,8a-, hexahydro-, (1alpha,4alpha,4beta,5beta,8beta, 8beta)-
P060	465-73-6	Isodrin
P062	757-58-4	Hexaethyl tetraphosphate
P062	757-58-4	Tetraphosphoric acid, hexaethyl ester
P063	74-90-8	Hydrocyanic acid
P063	74-90-8	Hydrogen cyanide
P064	624-83-9	Methane, isocyanato-
P064	624-83-9	Methyl isocyanate
P065	628-86-4	Fulminic acid, mercury (2+) salt (R,T)
P065	628-86-4	Mercury fulminate (R,T)
P066	16752-77-5	Ethanimidothioic acid, N- [(methylamino)carbonyl]oxy-, methyl ester
P066	16752-77-5	Methomyl
P067	75-55-8	Aziridine, 2-methyl-
P067	75-55-8	1,2-Propyleneimine
P068	60-34-4	Hydrazine, methyl-

Table 3. Acute Hazardous Wastes (Numerical Order by EPA Hazardous Waste Number)		
EPA Hazardous Waste Number	Chemical Abstract Number	Hazardous Waste (Substance)
P068	60-34-4	Methyl hydrazine
P069	75-86-5	2-Methylactonitrile
P069	75-86-5	Propanenitrile, 2-hydroxy-2-methyl-
P070	116-06-3	Aldicarb
P070	116-06-3	Propanal, 2-methyl-2-(methylthio)-, O- [(methylamino)carbonyl]oxime
P071	298-00-0	Methyl parathion
P071	298-00-0	Phosphorothioic acid, O,O,-dimethyl O-(4-nitrophenyl) ester
P072	86-88-4	alpha-Naphthylthiourea
P072	86-88-4	Thiourea, 1-naphthalenyl-
P073	13463-39-3	Nickel carbonyl
P073	13463-39-3	Nickel carbonyl Ni(CO) ₄ (T-4)-
P074	557-19-7	Nickel cyanide
P074	557-19-7	Nickel cyanide Ni(CN) ₂
P075	¹ 54-11-5	Nicotine, and salts
P075	¹ 54-11-5	Pyridine, 3-(1-methyl-2-pyrrolidinyl)-, (s)- and salts
P076	10102-43-9	Nitric oxide
P076	10102-43-9	Nitrogen oxide NO
P077	100-01-6	Benzenamine, 4-nitro
P077	100-01-6	p-Nitroaniline
P078	10102-44-0	Nitrogen dioxide
P078	10102-44-0	Nitrogen oxide NO ₂
P081	55-63-0	Nitroglycerine (R)
P081	55-63-0	1,2,3-Propanetriol, trinitrate (R)
P082	62-75-9	Methanamine, N-methyl-N-nitroso-
P082	62-75-9	N-Nitrosodimethylamine
P084	4549-40-0	N-Nitrosomethylvinylamine
P084	4549-40-0	Vinylamine, N-methyl-N-nitroso-
P085	152-16-9	Diphosphoramidate, octamethyl-
P085	152-16-9	Octamethylpyrophosphoramidate
P087	20816-12-0	Osmium oxide OsO ₄ , (T-4)-
P087	20816-12-0	Osmium tetroxide
P088	145-73-3	Endothall
P088	145-73-3	7-Oxabicyclo[2.2.1]heptane-2,3-dicarboxylic acid
P089	56-38-2	Parathion
P089	56-38-2	Phosphorothioic acid, O,O-diethyl O-(4-nitrophenyl) ester
P092	62-38-4	Mercury, (acetato-O)phenyl-
P092	62-38-4	Phenylmercury acetate
P093	103-85-5	Phenylthiourea
P093	103-85-5	Thiourea, phenyl-
P094	298-02-2	Phorate
P094	298-02-2	Phosphorodithioic acid, O, O-diethyl S-[(ethylthio)methyl] ester
P095	75-44-5	Carbonic dichloride
P095	75-44-5	Phosgene
P096	7803-51-2	Hydrogen phosphide
P096	7803-51-2	Phosphine
P097	52-85-7	Famphur
P097	52-85-7	Phosphorothioic acid, O-[4-[(dimethylamino)sulfonyl] phenyl]O,O-dimethyl ester
P098	151-50-8	Potassium cyanide
P098	151-50-8	Potassium cyanide K(CN)
P099	506-61-6	Argentate (1-), bis(cyano-C)-, potassium
P099	506-61-6	Potassium silver cyanide
P101	107-12-0	Ethyl cyanide
P101	107-12-0	Propanenitrile
P102	107-19-7	Propargyl alcohol
P102	107-19-7	2-Propyn-1-ol
P103	630-10-4	Selenourea
P104	506-64-9	Silver cyanide
P104	506-64-9	Silver cyanide Ag(CN)
P105	26628-22-8	Sodium azide

Table 3. Acute Hazardous Wastes (Numerical Order by EPA Hazardous Waste Number)		
EPA Hazardous Waste Number	Chemical Abstract Number	Hazardous Waste (Substance)
P106	143-33-9	Sodium cyanide
P106	143-33-9	Sodium cyanide Na(CN)
P108	¹ 57-24-9	Strychnidin-10-one, and salts
P108	¹ 57-24-9	Strychnine, and salts
P109	3689-24-5	Tetraethyldithiopyrophosphate
P109	3689-24-5	Thiodiphosphoric acid, tetraethyl ester
P110	78-00-2	Plumbane, tetraethyl-
P110	78-00-2	Tetraethyl lead
P111	107-49-3	Diphosphoric acid, tetraethyl ester
P111	107-49-3	Tetraethyl pyrophosphate
P112	509-14-8	Methane, tetranitro- (R)
P112	509-14-8	Tetranitromethane (R)
P113	1314-32-5	Thallic oxide
P113	1314-32-5	Thallium oxide Tl ₂ O ₃
P114	12039-52-0	Selenious acid, dithallium(1+) salt
P114	12039-52-0	Thallium(I) selenite
P115	7446-18-6	Sulfuric acid, dithallium(1+) salt
P115	7446-18-6	Thallium(I) sulfate
P116	79-19-6	Hydrazinecarbothioamide
P116	79-19-6	Thiosemicarbazide
P118	75-70-7	Methanethiol, trichloro-
P118	75-70-7	Trichloromethanethiol
P119	7803-55-6	Ammonium vanadate
P119	7803-55-6	Vanadic acid, ammonium salt
P120	1314-62-1	Vanadium oxide V ₂ O ₅
P120	1314-62-1	Vanadium pentoxide
P121	557-21-1	Zinc cyanide
P121	557-21-1	Zinc cyanide Zn(CN) ₂
P122	1314-84-7	Zinc phosphide Zn ₃ P ₂ , when present at concentrations greater than 10 percent (R,T)
P123	8001-35-2	Toxaphene
P127	1563-66-2	7-Benzofuranol, 2,3-dihydro-2,2-dimethyl-, methylcarbamate
P127	1563-66-2	Carbofuran
P128	315-8-4	Mexacarbate
P128	315-18-4	Phenol, 4-(dimethylamino)-3,5-dimethyl-, methylcarbamate (ester)
P185	26419-73-8	1,3-Dithiolane-2-carboxaldehyde, 2, 4-dimethyl-, O-[(methylamino)-carbonyl]oxime
P185	26419-73-8	Tirpate
P188	57-64-7	Benzoic acid, 2-hydroxy-, compd. with (3aS-cis)-1,2,3,3a,8,8a-hexahydro-1,3a,8-trimethylpyrrolo[2,3-b]indol-5-yl methylcarbamate ester (1:1)
P188	57-64-7	Physostigmine salicylate
P189	55285-14-8	Carbamic acid, [(dibutylamino)-thio]methyl-, 2,3-dihydro-2,2-dimethyl-7-benzofuranyl ester
P189	55285-14-8	Carbosulfan
P190	1129-41-5	Carbamic acid, methyl-, 3-methylphenyl ester
P190	1129-41-5	Metolcarb
P191	644-64-4	Carbamic acid, dimethyl-, 1-[(dimethylamino)carbonyl]-5-methyl-1H-pyrazol-3-yl ester
P191	644-64-4	Dimetilan
P192	119-38-0	Carbamic acid, dimethyl-, 3-methyl-1-(1-methylethyl)-1H-pyrazol-5-yl ester
P192	119-38-0	Isolan
P194	23135-22-0	Ethanimidothioic acid, 2-(dimethylamino)-N-[[[(methylamino)carbonyl]oxy]-2-oxo-, methyl ester
P194	23135-22-0	Oxamyl
P196	15339-36-3	Manganese, bis(dimethylcarbamodithioato-S,S')-
P196	15339-36-3	Manganese, dimethyldithiocarbamate

Table 3. Acute Hazardous Wastes (Numerical Order by EPA Hazardous Waste Number)		
EPA Hazardous Waste Number	Chemical Abstract Number	Hazardous Waste (Substance)
P197	17702-57-7	Formparanate
P197	17702-57-7	Methanimidamide, N,N-dimethyl-N'-[2-methyl-4-[[[(methylamino)carbonyl]oxy]phenyl]-formetanate hydrochloride
P198	23422-53-9	Formetanate hydrochloride
P198	23422-53-9	Methanimidamide, N,N-dimethyl-N'-[3-[[[(methylamino)-carbonyl]oxy]phenyl]-monohydrochloride
P199	2032-65-7	Methiocarb
P199	2032-65-7	Phenol, (3,5-dimethyl-4-(methylthio)-, methylcarbamate
P201	2631-37-0	Phenol, 3-methyl-5-(1-methylethyl)-, methyl carbamate
P201	2631-37-0	Promecarb
P202	64-00-6	m-Cumenyl methylcarbamate
P202	64-00-6	3-Isopropylphenyl N-methylcarbamate
P202	64-00-6	Phenol, 3-(1-methylethyl)-, methyl carbamate
P203	1646-88-4	Aldicarb sulfone
P203	1646-88-4	Propanal, 2-methyl-2-(methyl-sufonyl)-, O-[(methylamino)carbonyl] oxime
P204	57-47-6	Physostigmine
P204	57-47-6	Pyrrolo[2,3-b]indol-5-ol, 1,2,3,3a,8,8a-hexahydro-1,3a,8-trimethyl-, methylcarbamate (ester), (3aS-cis)-
P205	137-30-4	Zinc,bis(dimethyl-carbamodithioato-S,S')-
P205	137-30-4	Ziram

¹CAS Number given for parent compound only.

F. Commercial chemical products or manufacturing chemical intermediates or off-specification commercial chemical products referred to in Paragraphs D.1-4 of this Section are identified as toxic wastes (T) unless otherwise designated and are subject to the small quantity generator exclusion defined in LAC 33:V.108.A and G. These wastes and their corresponding EPA Hazardous Waste Numbers are listed in Table 4 of this Section.

[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. Wastes are first listed in alphabetical order by substance and then listed again in numerical order by EPA Hazardous Waste Number.]

Table 4. Toxic Wastes (Alphabetical Order by Substance)		
EPA Hazardous Waste Number	Chemical Abstract Number	Hazardous Waste (Substance)

[See Prior Text in A2213 – Acetamide, N-9H-fluorene-2-yl-]		
U240	¹ 94-75-7	Acetic acid, (2,4-dichloro- phenoxy)-, salts and esters
U112	141-78-6	Acetic acid, ethyl ester (I)
U144	301-04-2	Acetic acid, lead (2+) salt

[See Prior Text in Acetic acid, thallium(1+) salt – Benz (j) aceanthrylene, 1,2-dihydro-3-methyl-]		
U016	225-51-4	Benz(c)acridine
U017	98-87-3	Benzal chloride

Table 4. Toxic Wastes (Alphabetical Order by Substance)		
EPA Hazardous Waste Number	Chemical Abstract Number	Hazardous Waste (Substance)

[See Prior Text in Benzamide,3,5-dichloro-N-(1,1-dimethyl-2 propynyl)- - Ethylene glycol monoethyl ether]		
U115	75-21-8	Ethylene oxide (I,T)

[See Prior Text in Ethylene thiourea - 5,12-Naphthacenedione, 8-acetyl- 10-[(3- amino-2,3,6-trideoxy)-alpha-L-lyxo-hexopyranosyl]- oxy]- 7,8,9,10-tetrahydro-6,8,11-trihydroxy-1-methoxy-, (8S-cis)-]		
U026	494-03-1	Naphthalenamine,N,N'-bis (2-chloroethyl)-

[See Prior Text in 1-Naphthalenamine - 2-Nitropropane (I,T)]		
U172	924-16-3	N-Nitrosodi-n-butylamine

[See Prior Text in N-Nitrosodiethanolamine - 1-Propanol, 2,3-dibromo-, phosphate (3:1)]		
U140	73-83-1	1-Propanol, 2-methyl-(I,T)

[See Prior Text in 2-Propanone (I) - 2,4-(1H,3H)-Pyrimidinedione, 5- [bis(2-chloroethyl amino)-]		
U164	56-04-2	4(1H)-Pyrimidinone, 2,3-dihydro-6- methyl-2-thioxo-

[See Prior Text in Pyrrolidine, 1-nitroso- - 1H-1,2,4-Triazol-3-amine]		
U226	71-55-6	1,1,1-Trichloroethane

[See Prior Text in 1,1,2-Trichloroethane - Vinyl chloride]		
U248	¹ 81-81-2	Warfarin, and salts, when present at concentrations of 0.3 percent or less
U239	1330-20-7	Xylene (I)
U200	50-55-5	Yohimban-16-carboxylic acid,11,17- dimethoxy-18- [(3,4,5- trimethoxybenzoyl)oxy]-, methyl ester,(3beta, 16beta,17alpha,18beta,20alpha)-
U249	1314-84-7	Zinc phosphide Zn ₃ P ₂ , when present at concentrations of 10 percent or less
¹ CAS Number given for parent compound only.		

Table 4. Toxic Wastes (Numerical Order by EPA Hazardous Waste Number)		
EPA Hazardous Waste Number	Chemical Abstract Number	Hazardous Waste (Substance)
U001	75-07-0	Acetaldehyde (I)
U001	75-07-0	Ethanal (I)
U002	67-64-1	Acetone (I)
U002	67-64-1	2-Propanone (I)
U003	75-05-8	Acetonitrile (I,T)
U004	98-86-2	Acetophenone
U004	98-86-2	Ethanone, 1-phenyl-
U005	53-96-3	Acetamide, N-9H-fluoren-2-yl-
U005	53-96-3	2-Acetylaminofluorene
U006	75-36-5	Acetyl chloride (C,R,T)
U007	79-06-1	Acrylamide
U007	79-06-1	2-Propenamide
U008	79-10-7	Acrylic acid (I)
U008	79-10-7	2-Propenoic acid (I)
U009	107-13-1	Acrylonitrile
U009	107-13-1	2-Propenenitrile
U010	50-07-7	Azirino [2',3':3,4]pyrrolo[1,2-a] indole- 4,7-dione,6-amino-8- [[aminocarbonyl]oxy]methyl]- 1,1a,2,8,8a,8b,-hexahydro-8a-methoxy-5- methyl-, [1aS- (1aalpha,8beta,8alpha,8beta)]-

Table 4. Toxic Wastes (Numerical Order by EPA Hazardous Waste Number)		
EPA Hazardous Waste Number	Chemical Abstract Number	Hazardous Waste (Substance)
U010	50-07-7	Mitomycin C
U011	61-82-5	Amitrole
U011	61-82-5	1H-1,2,4-Triazol-3-amine
U012	62-53-3	Aniline (I,T)
U012	62-53-3	Benzenamine (I,T)
U014	492-80-8	Auramine
U014	492-80-8	Benzenamine,4,4'-carbonimidoylbis (N,N- dimethyl-
U015	115-02-6	Azaserine
U015	115-02-6	L-Serine, diazoacetate (ester)
U016	225-51-4	Benz(c)acridine
U017	98-87-3	Benzal chloride
U017	98-87-3	Benzene, (dichloromethyl)-
U018	56-55-3	Benz[a]anthracene
U019	71-43-2	Benzene (I,T)
U020	98-09-9	Benzenesulfonic acid chloride (C,R)
U020	98-09-9	Benzenesulfonyl chloride (C,R)
U021	92-87-5	Benzidine
U021	92-87-5	(1,1'-Biphenyl)-4,4'-diamine
U022	50-32-8	Benzo[a]pyrene
U023	98-07-7	Benzene, (trichloromethyl)-
U023	98-07-7	Benzotrichloride (C,R,T)
U024	111-91-1	Dichloromethoxy ethane
U024	111-91-1	Ethane, 1,1'-[methylenebis (oxy)]bis[2- chloro-
U025	111-44-4	Dichloroethyl ether
U025	111-44-4	Ethane, 1,1'-oxybis [2-chloro-
U026	494-03-1	Chlornaphazin
U026	494-03-1	Naphthalenamine,N,N'-bis (2-chloroethyl)-
U027	108-60-1	Dichloroisopropyl ether
U027	108-60-1	Propane, 2,2'-oxybis[2-chloro-
U028	117-81-7	1,2-Benzenedicarboxylic acid, bis(2- ethylhexyl) ester
U028	117-81-7	Diethylhexyl phthalate
U029	74-83-9	Methane, bromo-
U029	74-83-9	Methyl bromide
U030	101-55-3	Benzene, 1-bromo-4-phenoxy-
U030	101-55-3	4-Bromophenyl phenyl ether
U031	71-36-3	1-Butanol (I)
U031	71-36-3	n-Butyl alcohol(I)
U032	13765-19-0	Calcium chromate
U032	13765-19-0	Chromic acid H ₂ CrO ₄ , calcium salt
U033	353-50-4	Carbonic difluoride
U033	353-50-4	Carbon oxyfluoride (R,T)
U034	75-87-6	Acetaldehyde, trichloro-
U034	75-87-6	Chloral
U035	305-03-3	Benzenebutanoic acid, 4-[bis(2- chloroethyl)amino]-
U035	305-03-3	Chlorambucil
U036	57-74-9	Chlordane, alpha and gamma isomers
U036	57-74-9	4,7-Methano-1H-indene,1,2,4,5,6,7,8,8- octa-chloro-2,3,3a,4,7,7a-hexahydro-
U037	108-90-7	Benzene, chloro-
U037	108-90-7	Chlorobenzene
U038	510-15-6	Benzenoacetic acid, 4-chloro-alpha- (4- chlorophenyl)-alpha-hydroxy-, ethyl ester
U038	510-15-6	Chlorobenzilate
U039	59-50-7	p-Chloro-m-cresol
U039	59-50-7	Phenol, 4-chloro-3-methyl-
U041	106-89-8	Epichlorohydrin
U041	106-89-8	Oxirane, (chloromethyl)-
U042	110-75-8	2-Chloroethyl vinyl ether
U042	110-75-8	Ethene, (2-chloroethoxy)-
U043	75-01-4	Ethene, chloro-
U043	75-01-4	Vinyl chloride

Table 4. Toxic Wastes (Numerical Order by EPA Hazardous Waste Number)		
EPA Hazardous Waste Number	Chemical Abstract Number	Hazardous Waste (Substance)
U044	67-66-3	Chloroform
U044	67-66-3	Methane, trichloro-
U045	74-87-3	Methane, chloro-(I,T)
U045	74-87-3	Methyl chloride (I,T)
U046	107-30-2	Chloromethyl methyl ether
U046	107-30-2	Methane, chloromethoxy-
U047	91-58-7	beta-Chloronaphthalene
U047	91-58-7	Naphthalene, 2-chloro-
U048	95-57-8	o-Chlorophenol
U048	95-57-8	Phenol, 2-chloro-
U049	3165-93-3	Benzenamine, 4-chloro-2-methyl-, hydrochloride
U049	3165-93-3	4-Chloro-o-toluidine, hydrochloride
U050	218-01-9	Chrysene
U051		Creosote
U052	1319-77-3	Cresols (Cresylic acid)
U052	1319-77-3	Phenol, methyl-
U053	4170-30-3	2-Butenal
U053	4170-30-3	Crotonaldehyde
U055	98-82-8	Benzene, (1-methylethyl)-(I)
U055	98-82-8	Cumene (I)
U056	110-82-7	Benzene, hexahydro-(I)
U056	110-82-7	Cyclohexane (I)
U057	108-94-1	Cyclohexanone (I)
U058	50-18-0	Cyclophosphamide
U058	50-18-0	2H-1,3,2-Oxazaphosphorin-2-amine,N,N-bis(2-chloroethyl) tetrahydro-,2-oxide
U059	20830-81-3	Daunomycin
U059	20830-81-3	5,12-Naphthacenedione, 8-acetyl-10-[(3-amino-2,3,6-trideoxy)-alpha-L-lyxo-hexopyranosyl)-oxy]-7,8,9,10-tetrahydro-6,8,11-trihydroxy-1-methoxy-, (8S-cis)-
U060	72-54-8	Benzene, 1, 1'-(2, 2-dichloroethylidene)bis [4-chloro-
U060	72-54-8	DDD
U061	50-29-3	Benzene, 1, 1'-(2,2,2-trichloroethylidene)bis[4-chloro-
U061	50-29-3	DDT
U062	2303-16-4	Carbamothioic acid, bis(1-methylethyl)-S-(2,3-dichloro-2-propenyl)ester
U062	2303-16-4	Diallate
U063	53-70-3	Dibenz[a,h]anthracene
U064	189-55-9	Benzo[rs]t]pentaphene
U064	189-55-9	Dibenzo[a,i]pyrene
U066	96-12-8	1,2-Dibromo-3-chloropropane
U066	96-12-8	Propane, 1,2-dibromo-3-chloro-
U067	106-93-4	Ethane, 1,2-dibromo-
U067	106-93-4	Ethylene dibromide
U068	74-95-3	Methane, dibromo-
U068	74-95-3	Methylene bromide
U069	84-74-2	1,2-Benzenedicarboxylic acid, dibutyl ester
U069	84-74-2	Dibutyl phthalate
U070	95-50-1	Benzene, 1,2-dichloro-
U070	95-50-1	o-Dichlorobenzene
U071	541-73-1	Benzene, 1,3-dichloro-
U071	541-73-1	m-Dichlorobenzene
U072	106-46-7	Benzene, 1,4-dichloro-
U072	106-46-7	p-Dichlorobenzene
U073	91-94-1	(1,1'-Biphenyl)-4,4'-diamine, 3,3'-dichloro-
U073	91-94-1	3,3'-Dichlorobenzidine
U074	764-41-0	2-Butene, 1,4-dichloro- (I,T)
U074	764-41-0	1,4-Dichloro-2-butene (I,T)
U075	75-71-8	Dichlorodifluoromethane
U075	75-71-8	Methane, dichlorodifluoro-

Table 4. Toxic Wastes (Numerical Order by EPA Hazardous Waste Number)		
EPA Hazardous Waste Number	Chemical Abstract Number	Hazardous Waste (Substance)
U076	75-34-3	Ethane, 1,1-dichloro-
U076	75-34-3	Ethylidene dichloride
U077	107-06-2	Ethane, 1,2-dichloro-
U077	107-06-2	Ethylene dichloride
U078	75-35-4	1,1-Dichloroethylene
U078	75-35-4	Ethene, 1,1-dichloro-
U079	156-60-5	1,2-Dichloroethylene
U079	156-60-5	Ethene, 1,2-dichloro-, (E)-
U080	75-09-2	Methane, dichloro-
U080	75-09-2	Methylene chloride
U081	120-83-2	2,4-Dichlorophenol
U081	120-83-2	Phenol, 2,4-dichloro-
U082	87-65-0	2,6-Dichlorophenol
U082	87-65-0	Phenol, 2,6-dichloro-
U083	78-87-5	Propane, 1,2-dichloro-
U083	78-87-5	Propylene dichloride
U084	542-75-6	1,3-Dichloropropene
U084	542-75-6	1-Propene, 1,3-dichloro-
U085	1464-53-5	2,2'-Bioxirane
U085	1464-53-5	1,2:3,4-Diepoxybutane (I,T)
U086	1615-80-1	N,N'-Diethylhydrazine
U086	1615-80-1	Hydrazine, 1,2-diethyl-
U087	3288-58-2	O,O-Diethyl-S-methyl-dithiophosphate
U087	3288-58-2	Phosphorodithioic acid, O,O-diethyl,S-methyl ester
U088	84-66-2	1,2-Benzenedicarboxylic acid, diethyl ester
U088	84-66-2	Diethyl phthalate
U089	56-53-1	Diethylstilbestrol
U089	56-53-1	Phenol, 4,4'-(1,2-diethyl-1,2-ethenediyl) bis-, (E)-
U090	94-58-6	1,3-Benzodioxole, 5-propyl-
U090	94-58-6	Dihydrosafrole
U091	119-90-4	(1,1'-Biphenyl)-4,4'-diamine, 3,3'-dimethoxy-
U091	119-90-4	3,3'-Dimethoxybenzidine
U092	124-40-3	Dimethylamine (I)
U092	124-40-3	Methanamine, N-methyl-(I)
U093	60-11-7	Benzenamine,N,N-dimethyl-4-(phenylazo)-
U093	60-11-7	p-Dimethylaminoazobenzene
U094	57-97-6	Benz[a]anthracene, 7,12-dimethyl-
U094	57-97-6	7,12-Dimethylbenz[a]anthracene
U095	119-93-7	(1,1'-Biphenyl)-4,4'-diamine, 3,3'-dimethyl-
U095	119-93-7	3,3'-Dimethylbenzidine
U096	80-15-9	alpha, alpha-Dimethylbenzylhydroperoxide (R)
U096	80-15-9	Hydroperoxide, 1-methyl-1-phenylethyl-(R)
U097	79-44-7	Carbamic chloride, dimethyl-
U097	79-44-7	Dimethylcarbamoyl chloride
U098	57-14-7	1,1-Dimethylhydrazine
U098	57-14-7	Hydrazine, 1,1-dimethyl-
U099	540-73-8	1,2-Dimethylhydrazine
U099	540-73-8	Hydrazine, 1,2-dimethyl-
U101	105-67-9	2,4-Dimethylphenol
U101	105-67-9	Phenol, 2,4-dimethyl-
U102	131-11-3	1,2-Benzenedicarboxylic acid, dimethyl ester
U102	131-11-3	Dimethyl phthalate
U103	77-78-1	Dimethyl sulfate
U103	77-78-1	Sulfuric acid, dimethyl ester
U105	121-14-2	Benzene, 1-methyl-2,4-dinitro-
U105	121-14-2	2,4-Dinitrotoluene
U106	606-20-2	Benzene, 2-methyl-1,3-dinitro-

Table 4. Toxic Wastes (Numerical Order by EPA Hazardous Waste Number)		
EPA Hazardous Waste Number	Chemical Abstract Number	Hazardous Waste (Substance)
U106	606-20-2	2,6-Dinitrotoluene
U107	117-84-0	1,2-Benzenedicarboxylic acid, dioctyl ester
U107	117-84-0	Di-n-octyl phthalate
U108	123-91-1	1,4-Diethyleneoxide
U108	123-91-1	1,4-Dioxane
U109	122-66-7	1,2-Diphenylhydrazine
U109	122-66-7	Hydrazine, 1,2-diphenyl-
U110	142-84-7	Dipropylamine (I)
U110	142-84-7	1-Propanamine, N-propyl-(I)
U111	621-64-7	Di-n-propylnitrosamine
U111	621-64-7	1-Propanamine, N-nitroso- N-propyl-
U112	141-78-6	Acetic acid, ethyl ester (I)
U112	141-78-6	Ethyl acetate (I)
U113	140-88-5	Ethyl acrylate (I)
U113	140-88-5	2-Propenoic acid, ethyl ester (I)
U114	¹ 111-54-6	Carbamodithioic acid, 1,2-ethanediybis-, salts and esters
U114	¹ 111-54-6	Ethylenebisdithiocarbamic acid, salts and esters
U115	75-21-8	Ethylene oxide (I,T)
U115	75-21-8	Oxirane (I,T)
U116	96-45-7	Ethylene thiourea
U116	96-45-7	2-Imidazolidinethione
U117	60-29-7	Ethane, 1,1'-oxybis-(I)
U117	60-29-7	Ethyl ether (I)
U118	97-63-2	Ethyl methacrylate
U118	97-63-2	2-Propenoic acid, 2-methyl-, ethyl ester
U119	62-50-0	Ethyl methanesulfonate
U119	62-50-0	Methanesulfonic acid, ethyl ester
U120	206-44-0	Fluoranthene
U121	75-69-4	Methane, trichlorofluoro-
U121	75-69-4	Trichloromonofluoromethane
U122	50-00-0	Formaldehyde
U123	64-18-6	Formic acid (C,T)
U124	110-00-9	Furan (I)
U124	110-00-9	Furfuran (I)
U125	98-01-1	2-Furancarboxaldehyde (I)
U125	98-01-1	Furfural (I)
U126	765-34-4	Glycidylaldehyde
U126	765-34-4	Oxiranecarboxaldehyde
U127	118-74-1	Benzene, hexachloro-
U127	118-74-1	Hexachlorobenzene
U128	87-68-3	1,3-Butadiene, 1,1,2,3,4,4-hexachloro-
U128	87-68-3	Hexachlorobutadiene
U129	58-89-9	Cyclohexane, 1,2,3,4,5,6-hexachloro-, (1alpha,2alpha,3beta,4alpha,5alpha,6beta)-
U129	58-89-9	Lindane
U130	77-47-4	1,3-Cyclopentadiene, 1,2,3,4,5,5-hexachloro-
U130	77-47-4	Hexachlorocyclopentadiene
U131	67-72-1	Ethane, hexachloro-
U131	67-72-1	Hexachloroethane
U132	70-30-4	Hexachlorophene
U132	70-30-4	Phenol, 2,2'-methylenebis[3,4,6- trichloro-
U133	302-01-2	Hydrazine (R,T)
U134	7664-39-3	Hydrofluoric acid (C,T)
U134	7664-39-3	Hydrogen fluoride (C,T)
U135	7783-06-4	Hydrogen sulfide
U135	7783-06-4	Hydrogen Sulfide H ₂ S
U136	75-60-5	Arsinic acid, dimethyl-
U136	75-60-5	Cacodylic acid
U137	193-39-5	Indeno[1,2,3-cd]pyrene
U138	74-88-4	Methane, iodo-
U138	74-88-4	Methyl iodide

Table 4. Toxic Wastes (Numerical Order by EPA Hazardous Waste Number)		
EPA Hazardous Waste Number	Chemical Abstract Number	Hazardous Waste (Substance)
U140	78-83-1	Isobutyl alcohol (I,T)
U140	73-83-1	1-Propanol, 2-methyl-(I,T)
U141	120-58-1	1,3-Benzodioxole, 5-(1-propenyl)-
U141	120-58-1	Isosafrole
U142	143-50-0	Kepone
U142	143-50-0	1,3,4-Metheno-2H-cyclobuta-[cd]pentalen-2-one, 1,1a,3,3a,4,5,5,5a,5b,6- decachlorooctahydro-
U143	303-34-4	2-Butenoic acid, 2-methyl-, 7-[[2,3-dihydroxy-2-(1-methoxyethyl)-3- methyl-1-oxobutoxy]methyl]- 2,3,5,7a-tetrahydro-1H-pyrolizin- 1-yl ester, [1S-[1alpha(Z), 7(2S*,3R*), 7aalpha]]-
U143	303-34-4	Lasiocarpine
U144	301-04-2	Acetic acid, lead (2+) salt
U144	301-04-2	Lead acetate
U145	7446-27-7	Lead phosphate
U145	7446-27-7	Phosphoric acid, lead(2+)salt(2:3)
U146	1335-32-6	Lead,bis(acetato-O) tetrahydroxytri-
U146	1335-32-6	Lead subacetate
U147	108-31-6	2,5-Furandione
U147	108-31-6	Maleic anhydride
U148	123-33-1	Maleic hydrazide
U148	123-33-1	3,6-Pyridazinedione, 1,2-dihydro-
U149	109-77-3	Malononitrile
U149	109-77-3	Propanedinitrile
U150	148-82-3	Melphalan
U150	148-82-3	L-Phenylalanine, 4-[bis (2-chloroethyl)amino]-
U151	7439-97-6	Mercury
U152	126-98-7	Methacrylonitrile (I,T)
U152	126-98-7	2-Propenenitrile, 2-methyl-(I,T)
U153	74-93-1	Methanethiol (I,T)
U153	74-93-1	Thiomethanol (I,T)
U154	67-56-1	Methanol (I)
U154	67-56-1	Methyl alcohol (I)
U155	91-80-5	1,2-Ethanediamine, -N,N-dimethyl-N'-2-pyridinyl-N'-(2-thienylmethyl)-
U155	91-80-5	Methapyrilene
U156	79-22-1	Carbonochloridic acid, methyl ester (I,T)
U156	79-22-1	Methyl chlorocarbonate (I,T)
U157	56-49-5	Benz (j) aceanthrylene, 1,2-dihydro-3-methyl-
U157	56-49-5	3-Methylcholanthrene
U158	101-14-4	Benzenamine, 4,4'-methylenebis [2-chloro-
U158	101-14-4	4,4'-Methylenebis(2-chloroaniline)
U159	78-93-3	2-Butanone (I,T)
U159	78-93-3	Methyl ethyl ketone (MEK) (I,T)
U160	1338-23-4	2-Butanone, peroxide (R,T)
U160	1338-23-4	Methyl ethyl ketone peroxide (R,T)
U161	108-10-1	Methyl isobutyl ketone (I)
U161	108-10-1	4-Methyl-2-pentanone (I)
U161	108-10-1	Pentanol, 4-methyl-
U162	80-62-6	Methyl methacrylate (I,T)
U162	80-62-6	2-Propenoic acid, 2-methyl-, methyl ester (I,T)
U163	70-25-7	Guanidine,N-methyl-N'-nitro-N-nitroso-
U163	70-25-7	MNNG
U164	56-04-2	Methylthiouracil
U164	56-04-2	4(1H)-Pyrimidinone, 2,3-dihydro-6-methyl-2-thioxo-
U165	91-20-3	Naphthalene
U166	130-15-4	1,4-Naphthalenedione
U166	130-15-4	1,4-Naphthoquinone
U167	134-32-7	1-Naphthalenamine
U167	134-32-7	alpha-Naphthylamine

Table 4. Toxic Wastes (Numerical Order by EPA Hazardous Waste Number)		
EPA Hazardous Waste Number	Chemical Abstract Number	Hazardous Waste (Substance)
U168	91-59-8	2-Naphthalenamine
U168	91-59-8	beta-Naphthylamine
U169	98-95-3	Benzene, nitro-
U169	98-95-3	Nitrobenzene (I,T)
U170	100-02-7	p-Nitrophenol
U170	100-02-7	Phenol, 4-nitro-
U171	79-46-9	2-Nitropropane (I,T)
U171	79-46-9	Propane, 2-nitro-(I,T)
U172	924-16-3	1-Butanamine, N-butyl-N-nitroso-
U172	924-16-3	N-Nitrosodi-n-butylamine
U173	1116-54-7	Ethanol,2,2'-(nitrosoimino)bis-
U173	1116-54-7	N-Nitrosodiethanolamine
U174	55-18-5	Ethanamine, N-ethyl-N-nitroso-
U174	55-18-5	N-Nitrosodiethylamine
U176	759-73-9	N-Nitroso-N-ethylurea
U176	759-73-9	Urea, N-ethyl-N-nitroso-
U177	684-93-5	N-Nitroso-N-methylurea
U177	684-93-5	Urea, N-methyl-N-nitroso-
U178	615-53-2	Carbamic acid, methylnitroso-,ethyl ester
U178	615-53-2	N-Nitroso-N-methylurethane
U179	100-75-4	N-Nitrosopiperidine
U179	100-75-4	Piperidine,1-nitroso-
U180	930-55-2	N-Nitrosopyrrolidine
U180	930-55-2	Pyrrolidine, 1-nitroso-
U181	99-55-8	Benzenamine, 2-methyl-5-nitro-
U181	99-55-8	5-Nitro-o-toluidine
U182	123-63-7	Paraldehyde
U182	123-63-7	1,3,5-Trioxane, 2,4,6-trimethyl-
U183	608-93-5	Benzene, pentachloro
U183	608-93-5	Pentachlorobenzene
U184	76-01-7	Ethane, pentachloro-
U184	76-01-7	Pentachloroethane
U185	82-68-8	Benzene, pentachloronitro-
U185	82-68-8	Pentachloronitrobenzene (PCNB)
U186	504-60-9	1-Methylbutadiene (I)
U186	504-60-9	1,3-Pentadiene (I)
U187	62-44-2	Acetamide, N-(4-ethoxyphenyl)-
U187	62-44-2	Phenacetin
U188	108-95-2	Phenol
U189	1314-80-3	Phosphorus sulfide (R)
U189	1314-80-3	Sulfur phosphide (R)
U190	85-44-9	1,3-Isobenzofurandione
U190	85-44-9	Phthalic anhydride
U191	109-06-8	2-Picoline
U191	109-06-8	Pyridine, 2-methyl-
U192	23950-58-5	Benzamide,3,5-dichloro-N-(1,1-dimethyl-2-propynyl)-
U192	23950-58-5	Pronamide
U193	1120-71-4	1,2-Oxathiolane, 2,2-dioxide
U193	1120-71-4	1,3-Propane sultone
U194	107-10-8	1-Propanamine (I,T)
U194	107-10-8	n-Propylamine (I,T)
U196	110-86-1	Pyridine
U197	106-51-4	p-Benzoquinone
U197	106-51-4	2,5-Cyclohexadiene-1,4-dione
U200	50-55-5	Reserpine
U200	50-55-5	Yohimban-16-carboxylic acid,11,17-dimethoxy-18- [(3,4,5-trimethoxybenzoyl)oxy]-, methyl ester,(3beta,16beta,17alpha,18beta,20alpha)-
U201	108-46-3	1,3-Benzenediol
U201	108-46-3	Resorcinol
U202	'81-07-2	1,2-Benzisothiazol-3 (2H)- one, 1,1,-dioxide, and salts

Table 4. Toxic Wastes (Numerical Order by EPA Hazardous Waste Number)		
EPA Hazardous Waste Number	Chemical Abstract Number	Hazardous Waste (Substance)
U202	'81-07-2	Saccharin and salts
U203	94-59-7	1,3-Benzodioxole, 5-(2-propenyl)-
U203	94-59-7	Safrole
U204	7783-00-8	Selenious acid
U204	7783-00-8	Selenium dioxide
U205	7488-56-4	Selenium sulfide
U205	7488-56-4	Selenium sulfide SeS ₂ (R,T)
U206	18883-66-4	Glucopyranose,2-deoxy-2-(3-methyl-3-nitrosoureido)-, D-
U206	18883-66-4	D-Glucose, 2-deoxy-2-[[[(methylnitrosoamino)- carbonyl]amino]-Streptozotocin
U206	18883-66-4	Streptozotocin
U207	95-94-3	Benzene, 1,2,4,5-tetrachloro-
U207	95-94-3	1,2,4,5-Tetrachlorobenzene
U208	630-20-6	Ethane, 1,1,1,2-tetrachloro-
U208	630-20-6	1,1,1,2-Tetrachloroethane
U209	79-34-5	Ethane, 1,1,2,2-tetrachloro-
U209	79-34-5	1,1,2,2-Tetrachloroethane
U210	127-18-4	Ethene, tetrachloro-
U210	127-18-4	Tetrachloroethylene
U211	56-23-5	Carbon tetrachloride
U211	56-23-5	Methane, tetrachloro-
U213	109-99-9	Furan, tetrahydro-(I)
U213	109-99-9	Tetrahydrofuran (I)
U214	563-68-8	Acetic acid, thallium(1+) salt
U214	563-68-8	Thallium(I) acetate
U215	6533-73-9	Carbonic acid, dithallium (1+) salt
U215	6533-73-9	Thallium(I) carbonate
U216	7791-12-0	Thallium (I) chloride
U216	7791-12-0	Thallium chloride TlCl
U217	10102-45-1	Nitric acid, thallium(1+)salt
U217	10102-45-1	Thallium (I) nitrate
U218	62-55-5	Ethanethioamide
U218	62-55-5	Thioacetamide
U219	62-56-6	Thiourea
U220	108-88-3	Benzene, methyl-
U220	108-88-3	Toluene
U221	25376-45-8	Benzenediamine, ar-methyl-
U221	25376-45-8	Toluenediamine
U222	636-21-5	Benzenamine, 2-methyl-, hydrochloride
U222	636-21-5	o-Toluidine hydrochloride
U223	26471-62-5	Benzene,1,3-diisocyanatomethyl-(R,T)
U223	26471-62-5	Toluene diisocyanate (R,T)
U225	75-25-2	Bromoform
U225	75-25-2	Methane, tribromo-
U226	71-55-6	Ethane, 1,1,1-trichloro-
U226	71-55-6	Methyl chloroform
U226	71-55-6	1,1,1-Trichloroethane
U227	79-00-5	Ethane, 1,1,2-trichloro-
U227	79-00-5	1,1,2-Trichloroethane
U228	79-01-6	Ethene, trichloro-
U228	79-01-6	Trichloroethylene
U234	99-35-4	Benzene, 1,3,5-trinitro-
U234	99-35-4	1,3,5-Trinitrobenzene (R,T)
U235	126-72-7	1-Propanol, 2,3-dibromo-, phosphate (3:1)
U235	126-72-7	Tris(2,3-dibromopropyl) phosphate
U236	72-57-1	2,7-Naphthalenedisulfonic acid,3,3'-[(3,3'-dimethyl- [1,1'-biphenyl]-4,4'-diyl) bis(azo)bis[5-amino-4-hydroxy]-,tetrasodium salt
U236	72-57-1	Trypan blue
U237	66-75-1	2,4-(1H,3H)-Pyrimidinedione, 5- [bis(2-chloroethyl) amino]-
U237	66-75-1	Uracil mustard
U238	51-79-6	Carbamic acid, ethyl ester

Table 4. Toxic Wastes (Numerical Order by EPA Hazardous Waste Number)		
EPA Hazardous Waste Number	Chemical Abstract Number	Hazardous Waste (Substance)
U238	51-79-6	Ethyl carbamate (urethane)
U239	1330-20-7	Benzene, dimethyl-(I,T)
U239	1330-20-7	Xylene (I)
U240	¹ 94-75-7	Acetic acid, (2,4-dichloro- phenoxy)-, salts and esters
U240	¹ 94-75-7	2,4-D, salts and esters
U243	1888-71-7	Hexachloropropene
U243	1888-71-7	1-Propene, 1,1,2,3,3,3-hexachloro-
U244	137-26-8	Thioperoxydicarbonic diamide [(H ₂ N)C(S)] ₂ S ₂ , tetramethyl-
U244	137-26-8	Thiram
U246	506-68-3	Cyanogen bromide (CN) Br
U247	72-43-5	Benzene, 1, 1'-(2,2,2-trichloroethylidene)bis[4-methoxy-
U247	72-43-5	Methoxychlor
U248	¹ 81-81-2	2H-1-Benzopyran-2-one, 4-hydroxy-3-(3-oxo-1-phenyl-butyl)-, and salts, when present at concentrations of 0.3 percent or less
U248	¹ 81-81-2	Warfarin, and salts, when present at concentrations of 0.3 percent or less
U249	1314-84-7	Zinc phosphide Zn ₃ P ₂ , when present at concentrations of 10 percent or less
U271	17804-35-2	Benomyl
U271	17804-35-2	Carbamic acid, [1-[(butylamino)carbonyl]-1H-benzimidazol-2-yl]-, methyl ester
U278	22781-23-3	Bendiocarb
U278	22781-23-3	1,3-Benzodioxol-4-ol, 2,2-dimethyl-, methyl carbamate
U279	63-25-2	Carbaryl
U279	63-25-2	1-Naphthalenol, methylcarbamate
U280	101-27-9	Barban
U280	101-27-9	Carbamic acid, (3-chlorophenyl)-, 4-chloro-2-butynyl ester
U328	95-53-4	Benzenamine, 2-methyl-
U328	95-53-4	o-Toluidine
U353	106-49-0	Benzenamine, 4-methyl-
U353	106-49-0	p-Toluidine
U359	110-80-5	Ethanol,2-ethoxy-
U359	110-80-5	Ethylene glycol monoethyl ether
U364	22961-82-6	Bendiocarb phenol
U364	22961-82-6	1,3-Benzodioxol-4-ol, 2,2-dimethyl-
U367	1563-38-8	7-Benzofuranol, 2,3-dihydro-2,2-dimethyl-
U367	1563-38-8	Carbofuran phenol
U372	10605-21-7	Carbamic acid, 1H-benzimidazol-2-yl, methyl ester
U372	10605-21-7	Carbendazim
U373	122-42-9	Carbamic acid, phenyl-, 1-methylethyl ester
U373	122-42-9	Propham
U387	52888-80-9	Carbamothioic acid, dipropyl-, S-(phenylmethyl) ester
U387	52888-80-9	Prosulfocarb
U389	2303-17-5	Carbamothioic acid, bis(1-methylethyl)-, S-(2,3,3-trichloro-2-propenyl) ester
U389	2303-17-5	Triallate
U394	30558-43-1	A2213
U394	30558-43-1	Ethanimidothioic acid, 2-(dimethylamino)-N-hydroxy-2-oxo-, methyl ester
U395	5952-26-1	Diethylene glycol, dicarbamate
U395	5952-26-1	Ethanol, 2,2'-oxybis-, dicarbamate
U404	121-44-8	Ethanamine, N,N-diethyl-
U404	121-44-8	Triethylamine
U409	23564-05-8	Carbamic acid, [1,2-phenylenebis(iminocarbonothioyl)]bis-, dimethyl ester
U409	23564-05-8	Thiophanatemethyl

Table 4. Toxic Wastes (Numerical Order by EPA Hazardous Waste Number)		
EPA Hazardous Waste Number	Chemical Abstract Number	Hazardous Waste (Substance)
U410	59669-26-0	Ethanimidothioic acid, N,N'-[thiobis[(methylimino) carbonyloxy]]bis-,dimethyl ester
U410	59669-26-0	Thiodicarb
U411	114-26-1	Phenol, 2-(1-methylethoxy)-, methylcarbamate
U411	114-26-1	Propoxur
See F027	93-76-5	Acetic acid, (2,4,5-trichlorophenoxy)-
See F027	87-86-5	Pentachlorophenol
See F027	87-86-5	Phenol, pentachloro-
See F027	58-90-2	Phenol, 2,3,4,6-tetrachloro-
See F027	95-95-4	Phenol, 2,4,5-trichloro-
See F027	88-06-2	Phenol, 2,4,6-trichloro-
See F027	93-72-1	Propanoic acid,2-(2,4,5-trichlorophenoxy)-
See F027	93-72-1	Silvex (2,4,5-TP)
See F027	93-76-5	2,4,5-T
See F027	58-90-2	2,3,4,6-Tetrachlorophenol
See F027	95-95-4	2,4,5-Trichlorophenol
See F027	88-06-2	2,4,6-Trichlorophenol

¹CAS Number given for parent compound only.

G. Constituents that Serve as a Basis for Listing Hazardous Waste. Table 6 of this Section 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 EPA Hazardous Waste Number F001 – EPA Hazardous Waste Number F038]	
EPA Hazardous Waste Number F039	
All constituents for which treatment standards are specified for multi-source leachate (wastewaters and nonwastewaters) under LAC 33:V.2299, Table 2	

[See Prior Text in EPA Hazardous Waste Number K001 – EPA Hazardous Waste Number K181]	

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 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 14:426 (July 1988), LR 14:791 (November 1988), LR 15:182 (March 1989), 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, 840 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:1522 (November 1997), LR 24:321 (February 1998), LR 24:686 (April 1998), LR 24:1754 (September 1998), LR 25:487 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:304 (March 2001), LR 27:715 (May 2001), LR 28:1009 (May 2002), LR 29:324 (March 2003), amended by the Office of Environmental Assessment, LR 31:1573 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:831 (May 2006), LR 33:1627 (August 2007), LR 34:635 (April 2008).

§4903. Category II Hazardous Wastes

A. - B.2. ...

3. It is an ignitable compressed gas.

a. The term *compressed gas* designates any material or mixture having in the container an absolute pressure exceeding 40 p.s.i. at 70°F or, regardless of the pressure at 70°F, having an absolute pressure exceeding 104 p.s.i. at 130°F; or any liquid flammable material having a vapor pressure exceeding 40 p.s.i. absolute at 100°F as determined by ASTM Test D-323.

b. A compressed gas shall be characterized as ignitable if any one of the following occurs:

i. either a mixture of 13 percent or less (by volume) with air forms a flammable mixture or the flammable range with air is wider than 12 percent regardless of the lower limit. These limits shall be determined at atmospheric temperature and pressure. The method of sampling and test procedure shall be acceptable to the Bureau of Explosives and approved by the Director, Pipeline and Hazardous Materials Technology, U.S. Department of Transportation (see Note 2 to this Subsection);

ii. using the Bureau of Explosives' Flame Projection Apparatus (see Note 1 to this Subsection), the flame projects more than 18 inches beyond the ignition source with valve opened fully, or the flame flashes back and burns at the valve with any degree of valve opening;

iii. using the Bureau of Explosives' Open Drum Apparatus (see Note 1 to this Subsection), there is any significant propagation of flame away from the ignition source; or

iv. using the Bureau of Explosives' Closed Drum Apparatus (see Note 1 to this Subsection), there is any explosion of the vapor-air mixture in the drum.

4. It is an oxidizer. An oxidizer, for the purposes of these regulations, is a substance, such as a chlorate, permanganate, inorganic peroxide, or nitrate, that yields oxygen readily to stimulate the combustion of organic matter (see Note 4 to this Subsection). An organic compound containing the bivalent -O-O- structure and that may be considered a derivative of hydrogen peroxide where one or more of the hydrogen atoms have been replaced by organic radicals must be classed as an organic peroxide unless:

a. the material meets the definition of a Class A explosive or a Class B explosive, as defined in LAC

33:V.4903.D.8, in which case it must be classed as an explosive;

b. the material is forbidden to be offered for transportation according to 49 CFR 172.101 or 49 CFR 173.21;

c. it is determined that the predominant hazard of the material containing an organic peroxide is other than that of an organic peroxide; or

d. according to data on file with the Pipeline and Hazardous Materials Safety Administration in the U.S. Department of Transportation (see Note 3 to this Subsection), it has been determined that the material does not present a hazard in transportation.

[Note 1: A description of the Bureau of Explosives' Flame Projection Apparatus, Open Drum Apparatus, Closed Drum Apparatus, and method of tests may be procured from the Bureau of Explosives.]

[Note 2: As part of a U.S. Department of Transportation (DOT) reorganization, the Office of Hazardous Materials Technology (OHMT), which was the office listed in the 1980 publication of 49 CFR 173.300 for the purposes of approving sampling and test procedures for a flammable gas, ceased operations on February 20, 2005. OHMT programs have moved to the Pipeline and Hazardous Materials Safety Administration (PHMSA) in the DOT.]

[Note 3: As part of a U.S. Department of Transportation (DOT) reorganization, the Research and Special Programs Administration (RSPA), which was the office listed in the 1980 publication of 49 CFR 173.151a for the purposes of determining that a material does not present a hazard in transport, ceased operations on February 20, 2005. RSPA programs have moved to the Pipeline and Hazardous Materials Safety Administration (PHMSA) in the DOT.]

[Note 4: The DOT regulatory definition of an oxidizer was contained in §173.151 of 49 CFR, and the definition of an organic peroxide was contained in paragraph 173.151a. An organic peroxide is a type of oxidizer.]

C. - 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 16:1057 (December 1990), LR 17:369 (April 1991), LR 18:723 (July 1992), LR 18:1256 (November 1992), LR 22:829 (September 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:325 (March 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 34:644 (April 2008).

§4909. Comparable/Syngas Fuel Exclusion

A. - C.5. ...

Table 7: Detection and Detection Limit Values for Comparable Fuel Specification					
Chemical Name	CAS Number	Composite Value (mg/kg)	Heating Value (Btu/lb)	Concentration Limit (mg/kg at required 10,000 Btu/lb)	Minimum Required Detection Limit (mg/kg)
*** [See Prior Text in Total Nitrogen as N – Cyanide, total]					
Metals					
*** [See Prior Text in Antimony, total – Thallium, total]					
Hydrocarbons					
*** [See Prior Text in Benzo[a]anthracene – Toluene]					
Oxygenates					
*** [See Prior Text in Acetophenone – Safrole]					

Table 7: Detection and Detection Limit Values for Comparable Fuel Specification

Chemical Name	CAS Number	Composite Value (mg/kg)	Heating Value (Btu/lb)	Concentration Limit (mg/kg at required 10,000 Btu/lb)	Minimum Required Detection Limit (mg/kg)
Sulfonated Organics					
*** [See Prior Text in Carbon disulfide – O,O,O-Triethyl phosphorothioate]					
Nitrogenated Organics					
*** [See Prior Text in Acetonitrile [Methyl cyanide] – 1,3,5-Trinitrobenzene, [sym-Trinitrobenzene]]					
Halogenated Organics					
*** [See Prior Text in Allyl chloride – 1,1-Dichloroethylene [Vinylidene chloride]]					
Dichloromethoxy ethane [Bis(2-chloroethoxy)methane]	111-91-1	Nondetect		Nondetect	2400
*** [See Prior Text in 2,4-Dichlorophenol – Vinyl Chloride]					

Notes:
NA – Not Applicable

D. - D.13. ...

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 25:489 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:305 (March 2001), LR 28:1010 (May 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 34:644 (April 2008).

§4911. Conditional Exclusion for Used, Broken Cathode Ray Tubes (CRTs) Undergoing Recycling

A. - A.1.b. ...

2. Labeling. Each container in which used, broken CRT material is contained shall be labeled or marked clearly with one of the following phrases: "Used Cathode Ray Tube(s)—Contains Leaded Glass" or "Leaded Glass from Televisions or Computers." It shall also be labeled: "Do Not Mix with Other Glass Materials."

3. Transportation. The used, broken CRTs shall be transported in a container meeting the requirements of Subparagraph A.1.b and Paragraph A.2 of this Section.

4. Speculative Accumulation and Use Constituting Disposal. The used, broken CRTs are subject to the limitations on speculative accumulation as defined in LAC 33:V.109. If they are used in a manner constituting disposal, they must comply with the applicable requirements of LAC 33:V.4139 and 4141 instead of the requirements of this Section.

5. Exports. In addition to the applicable conditions specified in Paragraphs A.1-4 of this Section, exports of used, broken CRTs must comply with 40 CFR 261.39(a)(5).

B. Requirements for Processing of Used, Broken CRTs. Used, broken CRTs undergoing *CRT processing* as defined in LAC 33:V.109 are not solid wastes if they meet the following requirements.

1. Storage. Used, broken CRTs undergoing processing are subject to the requirements of Paragraphs A.1, 2, and 4 of this Section.

2. Processing. All CRTs shall be processed within a building with a roof, floor, and walls. No activities may be performed that use temperatures high enough to volatilize lead from CRTs.

C. Processed CRT Glass Sent to CRT Glass Making or Lead Smelting. Glass removed from used CRTs that is

destined for recycling at a CRT glass manufacturer or a lead smelter after processing is not a solid waste unless it is speculatively accumulated as defined in LAC 33:V.109. Imported, processed glass from CRTs is subject to these requirements as soon as it enters this state.

D. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and in particular R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 31:3122 (December 2005), amended LR 34:645 (April 2008).

§4913. Conditional Exclusion for Used, Intact Cathode Ray Tubes (CRTs) Exported for Recycling

A. Used, intact CRTs exported for recycling are not solid wastes if they meet the notice and consent conditions of LAC 33:V.4911.A.5, and if they are not speculatively accumulated as defined in LAC 33:V.109.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and in particular R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 34:645 (April 2008).

§4915. Notification and Recordkeeping for Used, Intact Cathode Ray Tubes (CRTs) Exported for Reuse

A. Persons who export used, intact CRTs for reuse must send a one-time notification to the EPA's Regional Administrator. The notification must include a statement that the notifier plans to export used, intact CRTs for reuse; the notifier's name, address, and EPA ID number (if applicable); and the name and phone number of a contact person.

B. Persons who export used, intact CRTs for reuse must keep copies of normal business records, such as contracts, demonstrating that each shipment of exported CRTs will be reused. This documentation must be retained for a period of at least three years from the date the CRTs were exported.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and in particular R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 34:645 (April 2008).

Herman Robinson, CPM
Executive Counsel

0804#022

RULE

**Office of the Governor
Division of Administration
Office of Group Benefits**

PPO and EPO Plans of Benefits—Ambulance Services
(LAC 32:III.301 and V.301)

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801(C) and 802(B)(2), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate Rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of the PPO and EPO Plan Documents regarding ambulance services to remove the benefits limitations and copayments.

Accordingly, OGB hereby adopts the following Rule to become effective May 1, 2008.

Title 32

EMPLOYEE BENEFITS

Part III. Preferred Provider (PPO) Plan of Benefits

Chapter 3. Medical Benefits

§301. Eligible Expenses

A. - A.13. ...

14. professional ambulance services that are medically necessary, subject to the following provisions:

a. licensed professional ambulance service in a vehicle licensed for highway use to or from a hospital with facilities to treat an illness or injury;

b. licensed air ambulance service to a hospital with facilities to treat an illness or injury;

15. - 35.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1830 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:480 (March 2002), LR 29:339, 343 (March 2003), LR 30:1192 (June 2004), LR 31:441 (February 2005), LR 32:1888 (October 2006), LR 32:1898 (October 2006), LR 34:646 (April 2008).

Part V. Exclusive Provider Organization (EPO) Plan of Benefits

Chapter 3. Medical Benefits

§301. Eligible Expenses

A. - A.13. ...

14. professional ambulance services that are medically necessary, subject to the following provisions:

a. licensed professional ambulance service in a vehicle licensed for highway use to or from a hospital with facilities to treat an illness or injury;

b. licensed air ambulance service to a hospital with facilities to treat an illness or injury;

15. - 35.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees, State Employees Group Benefits

Program, LR 25:1810 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:478 (March 2002), LR 29:334, 338 (March 2003), LR 30:1190 (June 2004), LR 31:440 (February 2005), LR 32:1860 (October 2006), LR 32:1898 (October 2006), LR 34:646 (April 2008).

Tommy D. Teague
Chief Executive Officer

0804#036

RULE

**Office of the Governor
Division of Administration
Office of Group Benefits**

PPO and EPO Plans of Benefits—Durable Medical
Equipment (LAC 32: III:301 and 701, V:301 and 701)

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801(C) and 802(B)(2), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate Rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of the PPO and EPO plan documents regarding durable medical equipment to remove the separate \$50,000 lifetime limit on benefits.

Accordingly, OGB hereby adopts the following Rule to become effective May 1, 2008.

Title 32

EMPLOYEE BENEFITS

Part III. Preferred Provider (PPO) Plan of Benefits

Chapter 3. Medical Benefits

§301. Eligible Expenses

A. - A.11.f. ...

12. durable medical equipment—the program will require written certification by the treating physician to substantiate the medical necessity for the equipment and the length of time that it will be used. The purchase of durable medical equipment will be considered an eligible expense only upon a showing that the rental cost would exceed the purchase price. Under no circumstances may the eligible expense for an item of durable medical equipment exceed the purchase price of such item;

13. - 35.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1830 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:480 (March 2002), LR 29:339, 343 (March 2003), LR 30:1192 (June 2004), LR 31:441 (February 2005), LR 32:1888 (October 2006), LR 32:1898 (October 2006), LR 34:646 (April 2008), effective May 1, 2008.

Chapter 7. Schedule of Benefits—PPO

§701. Comprehensive Medical Benefits

A. - C.3. ...

D. Durable Medical Equipment

Percentage payable	See % payable after deductible
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AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1843 (October 1999), amended LR 26:488 (March 2000), LR 27:719, 720, 722 (May 2001), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 27:1887 (November 2001), LR 28:2345 (November 2002), LR 29:340, 342, 343 (March 2003), repromulgated LR 29:578 (April 2003), amended LR 30:1192 (June 2004), LR 32:1897 (October 2006), LR 33:644 (April 2007), LR 33:1122 (June 2007), LR 34:646 (April 2008), effective May 1, 2008.

**Part V. Exclusive Provider Organization (EPO)
Plan of Benefits**

Chapter 3. Medical Benefits

§301. Eligible Expenses

A. - A.11.f. ...

12. durable medical equipment—the program will require written certification by the treating physician to substantiate the medical necessity for the equipment and the length of time that it will be used. The purchase of durable medical equipment will be considered an eligible expense only upon a showing that the rental cost would exceed the purchase price. Under no circumstances may the eligible expense for an item of durable medical equipment exceed the purchase price of such item;

13. - 35.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees, State Employees Group Benefits Program, LR 25:1810 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:478 (March 2002), LR 29:334, 338 (March 2003), LR 30:1190 (June 2004), LR 31:440 (February 2005), LR 32:1860 (October 2006), LR 32:1898 (October 2006), LR 34:647 (April 2008), effective May 1, 2008.

Chapter 7. Schedule of Benefits—EPO

§701. Comprehensive Medical Benefits

A. - D. ...

E. Durable Medical Equipment

	Non-Participating Provider	EPO Participating Provider
Percentage Payable	See percentage payable after applicable deductible (above)	20% member co-pay; 100% coverage after \$10,000 eligible expense for plan year

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1823 (October 1999), amended LR 26:487 (March 2000), LR 27:717, 719 (May 2001), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 27:1886 (November 2001), LR 28:476 (March 2002), LR 28:2342, 2343 (November 2002), repromulgated LR 28:2509 (December 2002), amended LR 29:335, 337, 338 (March 2003), LR 30:1190 (June 2004), LR 32:1869 (October 2006), LR

33:644 (April 2007), LR 33:1122 (June 2007), LR 34:647 (April 2008), effective May 1, 2008.

Tommy D. Teague
Chief Executive Officer

0804#035

RULE

**Office of the Governor
Division of Administration
Office of Group Benefits**

PPO and EPO Plans of Benefits—Genetic Testing
(LAC 32:III.317 and V.317)

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801(C) and 802(B)(2), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate Rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of the PPO and EPO plan documents setting forth the general exclusion for molecular laboratory procedures related genetic testing, to provide additional exceptions from the exclusion when such procedures are determined to be medically necessary for histocompatibility/blood typing, neoplasia, hereditary disorders, or other condition approved in advance by OGB.

Accordingly, OGB hereby adopts the following Rule to become effective May 1, 2008.

Title 32

EMPLOYEE BENEFITS

Part III. Preferred Provider (PPO) Plan of Benefits

Chapter 3. Medical Benefits

§317. Exceptions and Exclusions

A. - A.30. ...

31. molecular laboratory procedures related to genetic testing except when determined to be medically necessary during a covered pregnancy, or for histocompatibility/blood typing, neoplasia, hereditary disorders, or other condition approved in advance by OGB;

32. - 40. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1834 (October 1999), amended LR 26:488 (March 2000), LR 27:720 (May 2001), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:2343 (November 2002), LR 31:441 (February 2005), LR 32:1891 (October 2006), LR 34:647 (April 2008), effective May 1, 2008.

Part V. Exclusive Provider Organization (EPO) Plan of Benefits

Chapter 3. Medical Benefits

§317. Exceptions and Exclusions

A. - A.30. ...

31. molecular laboratory procedures related to genetic testing except when determined to be medically necessary during a covered pregnancy, or for histocompatibility/blood

typing, neoplasia, hereditary disorders, or other condition approved in advance by OGB;

32. - 40. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1813 (October 1999), amended LR 26:487 (March 2000), LR 27:717 (May 2001), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:2340 (November 2002), LR 31:440 (February 2005), LR 32:1863 (October 2006), LR 34:647 (April 2008), effective May 1, 2008.

Tommy D. Teague
Chief Executive Officer

0804#034

RULE

Office of the Governor Division of Administration Office of Group Benefits

PPO and EPO Plans of Benefits—Medicare (LAC 32:III.315 and V.315)

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801(C) and 802(B)(2), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate Rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of the PPO and EPO plan documents regarding OGB coverage and Medicare in order to enhance member understanding and to facilitate the administration of health care benefits effectively for the program and member. The modifications effect no substantive changes to the plan documents and only serve to more clearly express the intent of the Medicare provision in accordance with OGB's existing administrative interpretation and application.

Accordingly, OGB hereby adopts the following Rule to become effective upon promulgation.

Title 32

EMPLOYEE BENEFITS

Part III. Preferred Provider (PPO) Plan of Benefits

Chapter 3. Medical Benefits

§315. Medicare and OGB

A. When an individual is covered by this plan and by Medicare, Medicare laws and regulations govern the order of benefit determination, that is, whether Medicare is the primary or secondary payer.

B. Except as provided in Subsection C (below), when an individual is covered by this plan and by Medicare, and:

1. this plan is the primary payer, benefits will be paid without regard to Medicare coverage;

2. Medicare is the primary payer, eligible expenses under this plan will be limited to the amount allowed by Medicare, less the amount paid or payable by Medicare. All provisions of this plan, including all provisions related to

deductibles, co-insurance, limitations, exceptions, and exclusions will be applied.

C. The following applies to retirees and to covered spouses of retirees who attain or have attained the age of 65 on or after July 1, 2005.

1. Upon attainment of age 65, a retiree and/or the retiree's spouse may be eligible for Medicare if the retiree or the retiree's spouse has sufficient earnings credits.

2. A retiree or spouse of a retiree who attains or has attained age 65 when either has sufficient earnings credits to be eligible for Medicare, must enroll in Medicare Part A and Medicare Part B in order to receive benefits under this plan except as specifically provided in Paragraph 3, below.

3. If such retiree or spouse of a retiree is not enrolled in Medicare Part A and Medicare Part B, no benefits will be paid or payable under this plan except benefits payable as secondary to the part of Medicare in which the individual is enrolled.

4. A retiree and spouse of a retiree who do not have sufficient earnings credits to be eligible for Medicare must provide written verification from the Social Security Administration or its successor.

D. Retiree 100-Medicare COB—Upon enrollment and payment of the additional monthly premium, a plan member and dependents who are covered under Medicare Parts A and B (both) may choose to have full coordination of benefits with Medicare. Enrollment must be made within 30 days of eligibility for Medicare, or within 30 days of retirement if already eligible for Medicare, and at the annual enrollment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1833 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 32:1891 (October 2006), LR 34:648 (April 2008).

Part V. Exclusive Provider Organization (EPO) Plan of Benefits

Chapter 3. Medical Benefits

§315. Medicare and OGB

A. When an individual is covered by this plan and by Medicare, Medicare laws and regulations govern the order of benefit determination, that is, whether Medicare is the primary or secondary payer.

B. Except as provided in Subsection C (below), when an individual is covered by this plan and by Medicare, and:

1. this plan is the primary payer, benefits will be paid without regard to Medicare coverage;

2. Medicare is the primary payer, eligible expenses under this plan will be limited to the amount allowed by Medicare, less the amount paid or payable by Medicare. All provisions of this plan, including all provisions related to deductibles, co-insurance, limitations, exceptions, and exclusions will be applied.

C. The following applies to retirees and to covered spouses of retirees who attain or have attained the age of 65 on or after July 1, 2005.

1. Upon attainment of age 65, a retiree and/or the retiree's spouse may be eligible for Medicare if the retiree or the retiree's spouse has sufficient earnings credits.

2. A retiree or spouse of a retiree who attains or has attained age 65 when either has sufficient earnings credits to

be eligible for Medicare, must enroll in Medicare Part A and Medicare Part B in order to receive benefits under this plan except as specifically provided in Paragraph 3, below.

3. If such retiree or spouse of a retiree is not enrolled in Medicare Part A and Medicare Part B, no benefits will be paid or payable under this plan except benefits payable as secondary to the part of Medicare in which the individual is enrolled.

4. A retiree and spouse of a retiree who do not have sufficient earnings credits to be eligible for Medicare must provide written verification from the Social Security Administration or its successor.

D. Retiree 100-Medicare COB—Upon enrollment and payment of the additional monthly premium, a plan member and dependents who are covered under Medicare Parts A and B (both) may choose to have full coordination of benefits with Medicare. Enrollment must be made within 30 days of eligibility for Medicare, or within 30 days of retirement if already eligible for Medicare, and at the annual enrollment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1813 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 32:1862 (October 2006), LR 34:648 (April 2008).

Tommy D. Teague
Chief Executive Officer

0804#033

RULE

**Office of the Governor
Division of Administration
Office of Group Benefits**

**PPO Plan of Benefits—Physician Assistants and Registered
Nurse Practitioners (LAC 32:III.301)**

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801(C) and 802(B)(2), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of the PPO Plan of Benefits with respect to payment for services rendered by physician assistants and registered nurse practitioners to allow direct billing and to establish the maximum benefit amount.

Accordingly, OGB hereby adopts the following Rule to become effective May 1, 2008.

Title 32

EMPLOYEE BENEFITS

Part III. Preferred Provider Organization (PPO) Plan of Benefits

Chapter 3. Medical Benefits

§301. Eligible Expenses

A. - A.1. - 26. ...

27. services rendered by the following:

a. perfusionists and registered nurse assistants assisting in the operating room, when billed by the supervising physician;

b. physician assistants and registered nurse practitioners, provided that benefits will not exceed 80 percent of the amount payable for the same service rendered by a physician;

28. - 35.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees, State Employees Group Benefits Program, LR 25:1830 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:480 (March 2002), LR 29:339, 343 (March 2003), LR 30:1192 (June 2004), LR 31:441 (February 2005), LR 32:1888, 1898 (October 2006), LR 34:649 (April 2008), effective May 1, 2008.

Tommy D. Teague
Chief Executive Officer

0804#032

RULE

**Department of Health and Hospitals
Emergency Response Network Board**

Louisiana Network Emergency Response Board
(LAC 48:I.18101, 18301-18305, and 18501-18507)

The Department of Health and Hospitals, Louisiana Emergency Response Network Board, has exercised the provisions of R.S. 49:950 et seq., the Administrative Procedure Act to promulgate LAC 48.I.1801 et seq., initial rules and regulations of the Louisiana Emergency Response Network Board.

Pursuant to Act 248 of the 2004 Regular Session of the Louisiana Legislature, the Louisiana Emergency Response Network and Louisiana Response Network Board were created within the Department of Health and Hospitals. The Louisiana Emergency Response Network Board is authorized by R.S. 40:2844(H) to adopt rules and regulations for board governance, by R.S. 40:2845(A)(3)(a) to adopt rules and regulations to provide for duties and responsibilities of the nine regional commissions, and by R.S. 40:2846(A) to adopt rules and regulations to carry into effect the provisions of R.S. 40:2841 et seq. Pursuant to R.S. 40:2841, the legislative purpose of the Louisiana Emergency Response Network is to safeguard the public health, safety and welfare of the people of this state against unnecessary trauma and time-sensitive related deaths and incidents of morbidity due to trauma.

Title 48
PUBLIC HEALTH—GENERAL
Part I. General Administration
Subpart 15. Louisiana Emergency Response
Network Board

Chapter 181. General Provisions

§18101. Scope

A. These rules are adopted by the Louisiana Emergency Network (hereinafter LERN) Board (hereinafter board) to effectuate the provisions of R.S. 40:2841 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2846(A).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Emergency Response Network Board, LR 34:649 (April 2008).

Chapter 183. Louisiana Emergency Response Network (LERN) Board

§18301. Board Officers of Louisiana Emergency Response Network (LERN) Board

A. The chairman and vice-chairman, and any other officers that the board shall deem necessary, shall be elected for a two-year term at the first meeting held following January 1 of each even numbered year.

B. In the case of a vacancy in the office of chairman, the vice-chairman shall serve the remainder of the vacated term, and in the case of a vacancy in the office of vice-chairman, the board shall elect a new vice-chairman who shall serve the remainder of the vacated term.

C. The chairman shall:

1. preside at all meetings of the board;
2. determine necessary subcommittees and working group and appoint members to each subcommittee and working groups;
3. direct activities of staff between board meetings;
4. provide direction on behalf of board between meetings to all regional commissions;
5. designate the date, time and place of board meetings;
6. enter into confidentiality agreements on behalf of the board regarding pertinent data to be submitted to board and board staff which contain individually identifiable health or proprietary information;
7. perform all other duties as may be assigned by the board.

D. Should the chairman become unable to perform the duties of chairman, the vice-chairman shall act in his stead.

E. A ground for removal of a board officer includes conviction of a felony.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:2844(H) and 40:2846(A).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Emergency Response Network Board, LR 34:650 (April 2008).

§18303. Quorum

A. Eight members of the board shall constitute a quorum for all purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2844(H) and 40:2846(A).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Emergency Response Network Board, LR 34:650 (April 2008).

§18305. Grounds for Removal of Board Members

A. Grounds for removal of board members include conviction of a felony.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2844(H) and 40:2846(A).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Emergency Response Network Board, LR 34:650 (April 2008).

Chapter 185. Regional Commissions; Membership; Officers; Meetings; Duties and Responsibilities

§18501. Regional Commission Membership

A. Selection of Regional Commission Membership by Louisiana Emergency Response Network (LERN) Board

1. The process for selecting the regional commission members is as follows:

a. the LERN Board Chairman shall request in writing the name of a nominee to serve on each regional commission from each of the legislatively identified state organizations;

b. in the event there is more than one organization, state association or entity, each entity shall be requested to name a nominee and, once constituted, the commission shall choose from among the nominees; and

c. if no state or local organization exists in a category, but multiple nominees are identified in that category, the selection of the representative to serve on the regional commission will be determined by that category's group of nominees.

2. Once documentation is received from each organization or group, the compiled list of nominees is submitted to the board for ratification. The board shall appoint those selected by the various organizations.

B. Voting members of the regional commission may be added through a process employing the following steps:

1. majority vote of a quorum of voting members of the commission;

2. formal written request to LERN Board to add specified voting member, with reasons for adding. Such addition must represent a group which would enhance the working of the regional commission;

3. majority vote by LERN Board members at a meeting. If such a vote fails, the regional commission may appear in person at the following LERN Board meeting, where the subject will be revisited;

4. once an additional voting member is approved for one region, in order for other regions to add a member representing the same group, only a letter detailing the requirements of Paragraphs 1 through 3 above will be necessary to add the particular member. Board approval will not require an additional vote.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2845(A)(3)(a) and 40:2846(A).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Emergency Response Network Board, LR 34:650 (April 2008).

§18503. Regional Commission Officers

A. Each regional commission shall select a chairman and vice chairman.

B. The chairman and vice-chairman, and any other officers that the commission shall deem necessary, shall be elected for a two-year term at the first meeting held following January 1 of each even numbered year.

C. In the case of a vacancy in the office of chairman, the vice-chairman shall serve as chairman for the remaining vacated term; and in the case of a vacancy in the office of

vice-chairman, the regional commission shall elect a new vice-chairman who shall serve until the expiration of the vacated term.

D. The chairman shall:

1. preside at all meetings of the commission;
2. determine necessary ad hoc committees, appoint a commission member to chair each such committee, and provide for the commission as a whole to name the membership of the committee;
3. provide direction to the commission to implement the mandates of the LERN Board;
4. direct that a record of all meetings of the commission shall be kept and such records shall be retained as permanent records of the transactions of the commission; and
5. perform all other duties pertaining to the office of chairman of the commission or as may be assigned by the commission.

E. Should the chairman become unable to perform the duties of chairman, the vice-chairman shall act in his stead.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2845(A)(3)(a) and 40:2846(A).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Emergency Response Network Board, LR 34:650 (April 2008).

§18505. Regional Commission Meetings

A. Meetings of the commission shall be noticed, convened and held not less frequently than quarterly during each calendar year and otherwise at the call of the chairman or on the written petition for a meeting signed by not less than the number of members which would constitute a quorum of the commission. Meetings shall be held on such date and at such time and place as may be designated by the chairman.

B. One third of the currently serving members of the commission shall constitute a quorum for all purposes. All actions which the commission is empowered by law to take shall be effected by vote of not less than a majority of the members present at a meeting of the commission at which a quorum is present.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2845(A)(3)(a) and 40:2846(A).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Emergency Response Network Board, LR 34:651 (April 2008).

§18507. Regional Commission Duties and Responsibilities

A. Each regional commission shall:

1. develop a written system plan for submission to LERN Board, which plan shall:
 - a. identify all resources available in the region for emergency and disaster preparedness and response;
 - b. be based on standard guidelines for comprehensive system development;
 - c. include all parishes within the region unless a specific parish portion thereof has been aligned within an adjacent region;
 - d. give an opportunity to all health care entities and interested specialty centers opportunity to participate in the planning process; and
 - e. address the following components:
 - i. injury prevention;
 - ii. access to the system;

- iii. communications;
- iv. pre-hospital triage criteria;
- v. diversion policies;
- vi. bypass protocols;
- vii. regional medical control;
- viii. facility triage criteria;
- ix. inter-hospital transfers;
- x. planning for the designation of trauma facilities, including the identification of the lead facility(ies); and
- xi. a performance improvement program that evaluates processes and outcomes from a system perspective;

2. upon approval of the board, implement the system plan to include:

- a. education of all entities about the plan components;
- b. on-going review of resource, process, and outcome data; and
- c. if necessary, revision and re-approval of the plan or plan components by LERN Board;

3. annually complete a regional needs assessment and conduct education and training within the region to meet the needs identified in the annual needs assessment;

4. develop and implement a regional performance improvement (PI) program plan;

5. develop and implement a regional injury prevention program;

6. at least quarterly, submit evidence of on-going activity, including meeting notices and minutes, to LERN Board; and

7. Annually submit a report to LERN Board which describes progress toward system development and demonstrates on-going activity;

B. Regional commission may request technical assistance from the LERN Board at any time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2845(A)(3)(a) and 40:2846(A).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Emergency Response Network Board, LR 34:651 (April 2008).

Lester W. Johnson, M.D.
Chairman

0804#024

RULE

Department of Health and Hospitals Office of Public Health

General Provisions
(LAC 51:I.101, 105, 107, 109, 111, 119, and 125)

The Department of Health and Hospitals, Office of Public Health, pursuant to the authority in R.S. 40:4(A) and R.S. 40:5 amends the Louisiana Administrative Code (LAC), Title 51 (Public Health—Sanitary Code), Part I (General Provisions). The Rule is necessary in order to clarify that administrative enforcement procedures and compliance orders may be applied against any person who violates the provisions of the Louisiana State Sanitary Code including,

but not limited to, the operator, owner, manager, lessee or their agent, or person in charge of an establishment, facility, or property. The Rule attempts to clarify the administrative enforcement procedure/compliance order process in order to ensure that due process is being properly afforded to the parties regulated under the state sanitary code. Finally, this Rule enacts §119.C.1 and §125 of Part I since these regulations were inadvertently repealed when Chapter 1 of the Louisiana State Sanitary Code was repealed, re-enacted, and codified into the LAC format as Part I on October 20, 2001 (see LR 27:1693). These inadvertently repealed regulations were originally promulgated on April 20, 1992 (LR 18:386) and on April 20, 1997 (LR 23:412).

Title 51

PUBLIC HEALTH—SANITARY CODE

Part I. General Provisions

Chapter 1. General

§101. Definitions

[formerly paragraph 1:001]

A. ...

B. Unless otherwise specifically provided herein, the following words and terms used in this Chapter are defined for the purposes thereof as follows.

Code—State Sanitary Code.

Compliance Order—a written notice issued by the state health officer and the secretary of the department, which documents violation(s) of the code and references the provision(s) of the code violated, to the owner, manager, lessee or their agent, of an establishment, facility or property, and specifies a time frame for compliance. The compliance order shall be issued after violation(s) have been documented in an inspection and the same violation(s) continue and are documented in a reinspection. The compliance order shall inform the aggrieved party of the possible penalties for failure to comply with the compliance order and the right of the aggrieved party to an administrative appeal to the Division of Administrative Law. Nothing herein shall be interpreted to prohibit the state health officer and the secretary of the department to issue a written notice documenting violation(s) of the code, referencing the provision(s) of the code violated and specifying a time frame for compliance to such other persons as they deem necessary to aid in the enforcement of the provisions of the code, including orders modifying, suspending, or revoking permits, variances, or exemptions, and orders requiring persons to comply with a rule, regulation, schedule or other requirement of the state health officer.

Department—the Department of Health and Hospitals.

Notice of Violation—a written notice issued to the owner, manager, lessee or their agent of an establishment, facility or property which documents the nature of the violation(s) of the code, including a reference to the provision(s) of the code which have been violated, which were observed during an inspection or investigation by a representative of the state health officer. This term shall also include a written notice issued to such other persons as may be deemed necessary who have violated or have been alleged to violate the provisions of this code when such

notice documents the nature of the violation(s) of the code, including a reference to the provision(s) of the code which have been violated, all of which were observed or discovered either during an inspection or investigation by a representative of the state health officer.

Secretary—executive head and chief administrative officer of the department who has been appointed by the governor with the consent of the senate in accord with R.S. 40:253. This term shall also include any acting secretary of the department and the secretary/acting secretary's duly authorized representative(s).

State Sanitary Code—rules, regulations, and provisions promulgated by the state health officer which covers matters within his jurisdiction in accord with the authority granted under R.S. 36:258(B), R.S.40:4(A), and R.S. 40:5. Such rules, regulations, and provisions are housed in Title 51 of the Louisiana Administrative Code (LAC), i.e., LAC 51.

Violation—a transgression of a Section, Subsection, Paragraph, Subparagraph, Clause, Subclause, or any other divisions thereof of the code. Violations are classified into four classes corresponding to the severity of the violation:

Violator—primarily, any person who has been issued a Notice of Imposition of penalty for noncompliance with any provision of a compliance order. Generally, this term shall also include persons who have been issued a Notice of Violation wherein such person(s) is alleged to have violated one or more provisions of the state sanitary code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and R.S. 40:5(3)(7)(17)(19)(20)(21).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:1693 (October 2001), repromulgated LR 28:1209 (June 2002), amended LR 28:2528 (December 2002), LR 34:652 (April 2008).

§105. Administrative Enforcement Procedures

[formerly paragraph 1:007-1]

A. The proper documentation of violations is an essential part of the enforcement process. When violations of the code are found by either inspection, investigation, or by any other means, they shall be noted either on a notice of violation(s) form or letter. The sanitarian, engineer or other representative of the state health officer shall describe with particularity the nature of the violation(s), including a reference to the provision(s) of the code which have been violated. A specific date shall be set for correction and the violator shall be warned of the penalties that could ensue in the event of noncompliance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and R.S. 40:5(3)(7)(17)(19)(20)(21).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:1693 (October 2001), amended LR 28:1210 (June 2002), LR 34:652 (April 2008).

§107. Delivery of the Notice of Violation

[formerly paragraph 1:007-2]

A. In those cases in which the state health officer or his/her representative determines that a violation has occurred and a decision is made to issue a notice of violation, the notice of violation form or letter which list the violation(s) shall:

1. be left with the operator, owner, manager, lessee or their agent, or person in charge of the establishment, facility, or property at the time of such inspection or monitoring;

2. be hand-delivered or mailed to the person in charge of the establishment, facility, or property as soon as a determination is made that there is/are violation(s); or

3. be left with, hand-delivered, or mailed to any other person deemed to have violated the state sanitary code.

B. Any notice of violation which has been left with the operator, owner, manager, lessee or their agent, or person in charge of the establishment, facility, or property at the time of inspection or monitoring shall have the date that the notice of violation was left with such person recorded on the notice of violation form or letter.

C. Any notice of violation which is hand-delivered shall have the date of delivery recorded on the notice of violation form or letter or shall have the date of delivery of the notice of violation recorded on a service of process form.

D. Any notice of violation which is issued by mailing shall be sent by United States Postal Service, via certified mail-return receipt requested, registered mail-return receipt requested, or express mail-return receipt requested.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and R.S. 40:5(3)(7)(17)(19)(20)(21).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:1694 (October 2001), repromulgated LR 28:1210 (June 2002), amended LR 28:2529 (December 2002), LR 34:652 (April 2008).

§109. Violation Notice

[formerly paragraph 1:007-4]

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:1694 (October 2001), repromulgated LR 28:1210 (June 2002), amended LR 28:2529 (December 2002), repealed LR 34:653 (April 2008).

§111. Reinspection and Compliance Order

[formerly paragraph 1:007-5]

A. If reinspection discloses that the violation(s) specified in the notice of violation has not been remedied, the state health officer or his/her representative may issue a compliance order requiring correction of the violation(s) after said compliance order is served, or take whatever action is authorized by law to remedy the violation(s). Compliance orders may be issued by the state health officer to any such persons as he deems necessary to aid in the enforcement of the provisions of the code, including orders modifying, suspending, rescinding or revoking permits, variances, or exemptions, and orders requiring persons to comply with a rule, regulation, schedule, or other requirement of the state health officer. An order may also require remedial actions to be taken to prevent harm to public safety, health, or welfare.

B. Compliance orders shall be served by United States Postal Service, via certified mail-return receipt requested, registered mail-return receipt requested, or express mail-return receipt requested, or hand-delivered. Any compliance order which is hand-delivered shall have the date of delivery recorded on the compliance order or shall have the date of delivery of the compliance order recorded on a service of process form.

C. Any compliance order issued under this Section shall:

1. be signed by the state health officer and the secretary and shall be effective upon issuance unless a later date is specified therein;

2. state with reasonable specificity the nature of the violation;

3. state a time limit for compliance;

4. state that in the event of non-compliance, a civil fine may be assessed and/or an existing license or permit issued by the department may be suspended or revoked;

5. state that the order shall become final and not subject to further review 20 days after the order has been served to the respondent, unless the respondent files a written request for an administrative hearing with the state health officer within that 20 day period; and

6. be subject to appeal procedures set forth by state law.

D. If timely received, the state health officer shall forward any request for an administrative hearing to the Division of Administrative Law (DAL). In accord with R.S. 49:991 et seq., hearings shall be held by an Administrative Law Judge (ALJ) employed by the DAL.

E. Upon finding that an emergency exists which requires that immediate action be taken, the state health officer shall issue such emergency compliance orders as are necessary, which shall be effective immediately upon issuance, and any request for hearing shall not suspend the implementation of the action ordered. In any case wherein the state health officer determines that an emergency compliance order is required to be issued, the prior issuance of a notice of violation shall not be necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and R.S. 40:5(3)(7)(17)(19)(20)(21).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:1694 (October 2001), amended LR 28:1210 (June 2002), amended LR 28:2529 (December 2002), LR 34:653 (April 2008).

§119. Plans and Permits

A. ...

B. [formerly paragraph 1:009-2] In those instances in which such activities, for which submission of plans prior to initiation of the activity is required, are found to exist, and no such submittal of plans has been made, the state health officer shall, upon submittal of the required plans and determination of compliance of such activity with this code, offer no objection to the existence of such activity. This shall not be construed to limit in any way the state health officer's authority to suspend, rescind, revoke, or reissue such position of no objection, just as with any other approval or permit, as per §119.C of this Part. The burden of proof of compliance shall be on the applicant.

C. [formerly paragraph 1:010] The state health officer can suspend, rescind, revoke, and reissue permits or approvals, or issue new permits or approvals as provided in this code. The addresses to which requests shall be submitted are set forth in the appropriate Parts of this code.

1. [formerly 1:010-1] If any permit requiring a fee is paid for by a check that is returned for insufficient funds, closed account, stop payment, or for any other reason, the permit holder must reimburse the appropriate agency within 30 days of notification that their check has been returned. Failure to comply with this Paragraph shall be sufficient

grounds for the suspension, rescission, or revocation of said permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and R.S. 40:5(3)(7)(17)(19)(20)(21).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:1695 (October 2001), amended LR 28:1211 (June 2002), LR 34:653 (April 2008).

§125. Alternate Administrative Enforcement Procedures [formerly 1:007-24]

A. When the state health officer chooses to utilize the administrative order/civil penalty authority granted within R.S. 40:5.9 relative to violations applicable to public water systems, the regulations which implement the enforcement provisions of this law are embodied within Chapters 5 and 7 of Part XII of the code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4, R.S. 40:5.9, and R.S. 40:5(3)(7)(17)(19)(20)(21).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 34:654 (April 2008).

Alan Levine
Secretary

0804#088

RULE

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

Home Health Services—Extended Nursing Services
Reimbursement Rate Increase (LAC 50:XIII.701)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted LAC 50:XIII.701 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950, et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XIII. Home Health

Subpart 1. Home Health Services

Chapter 7. Reimbursement Methodology

§701. Nursing and Home Health Aide Services

A. Effective for dates of service on or after July, 20, 2007, the reimbursement rates for extended nursing services are increased as follows:

1. nurse care in home performed by a registered nurse (RN) is increased to \$34 per hour;
2. nurse care in home performed by a licensed practical nurse (LPN) is increased to \$32 per hour;
3. multiple visits—nurse care in home performed by an RN is increased to \$17 per hour; and
4. multiple visits—nurse care in home performed by an LPN is increased to \$16 per hour.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:654 (April 2008).

Alan Levine
Secretary

0804#074

RULE

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

Hospital Services—Inpatient Hospitals—Disproportionate Share Hospital Payment Methodologies (LAC 50:V.Chapters 25 and 27)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has repromulgated the provisions governing disproportionate share hospital (DSH) payment methodologies for inpatient hospitals in LAC 50:V.Chapters 25 and 27 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

**Part V. Medical Assistance Program—Hospital Services
Subpart 3. Disproportionate Share Hospital Payments
Chapter 25. Disproportionate Share Hospital Payment Methodologies**

§2501. General Provisions

A. The reimbursement methodology for inpatient hospital services incorporates a provision for an additional payment adjustment for hospitals serving a disproportionate share of low income patients.

B. The following provisions govern the disproportionate share hospital (DSH) payment methodologies for qualifying hospitals.

1. Total cumulative disproportionate share payments under any and all disproportionate share hospital payment methodologies shall not exceed the federal disproportionate share state allotment for Louisiana for each federal fiscal year or the state appropriation for disproportionate share payments for each state fiscal year. The department shall make necessary downward adjustments to hospital's disproportionate share payments to remain within the federal disproportionate share allotment and the state disproportionate share appropriated amount.

2. Appropriate action including, but not limited to, deductions from DSH, Medicaid payments and cost report settlements shall be taken to recover any overpayments resulting from the use of erroneous data, or if it is determined upon audit that a hospital did not qualify.

3. DSH payments to a hospital determined under any of the methodologies described in this Subpart 3 shall not exceed the hospital's net uncompensated cost as defined in Chapter 27 or the disproportionate share limits as defined in

Section 1923(g)(1)(A) of the Social Security Act for the state fiscal year to which the payment is applicable. Any Medicaid profit shall be used to offset the cost of treating the uninsured in determining the hospital specific DHH limits.

4. Qualification is based on the hospital's latest filed cost report and related uncompensated cost data as required by the department. Qualification for small rural hospitals is based on the latest filed cost report. Hospitals must file cost reports in accordance with Medicare deadlines, including extensions. Hospitals that fail to timely file Medicare cost reports and related uncompensated cost data will be assumed to be ineligible for disproportionate share payments. Only hospitals that return timely disproportionate share qualification documentation will be considered for disproportionate share payments. After the final payment during the state fiscal year has been issued, no adjustment will be given on DSH payments with the exception of public state-operated hospitals, even if subsequently submitted documentation demonstrates an increase in uncompensated care costs for the qualifying hospital. For hospitals with distinct part psychiatric units, qualification is based on the entire hospital's utilization.

5. Hospitals shall be notified by letter at least 60 days in advance of calculation of DSH payment to submit documentation required to establish DSH qualification. Only hospitals that timely return DSH qualification documentation will be considered for DSH payments. The required documents are:

- a. obstetrical qualification criteria;
- b. low income utilization revenue calculation;
- c. Medicaid cost report; and
- d. uncompensated cost calculation.

6. Hospitals and/or units which close or withdraw from the Medicaid Program shall become ineligible for further DSH pool payments for the remainder of the current DSH pool payment cycle and thereafter.

C. A hospital receiving DSH payments shall furnish emergency and non-emergency services to uninsured persons with family incomes less than or equal to 100 percent of the federal poverty level on an equal basis to insured patients.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:654 (April 2008).

§2503. Disproportionate Share Hospital Qualifications

A. In order to qualify as a disproportionate share hospital, a hospital must:

1. have at least two obstetricians who have staff privileges and who have agreed to provide obstetric services to individuals who are Medicaid eligible. In the case of a hospital located in a rural area (i.e., an area outside of a metropolitan statistical area), the term *obstetrician* includes any physician who has staff privileges at the hospital to perform nonemergency obstetric procedures; or
2. treat inpatients who are predominantly individuals under 18 years of age; or
3. be a hospital which did not offer nonemergency obstetric services to the general population as of December 22, 1987; and
4. have a utilization rate in excess of one or more of the following specified minimum utilization rates:

a. Medicaid utilization rate is a fraction (expressed as a percentage). The numerator is the hospital's number of Medicaid (Title XIX) inpatient days. The denominator is the total number of the hospital's inpatient days for a cost reporting period. Inpatient days include newborn and psychiatric days and exclude swing bed and skilled nursing days. Hospitals shall be deemed disproportionate share providers if their Medicaid utilization rates are in excess of the mean, plus one standard deviation of the Medicaid utilization rates for all hospitals in the state receiving payments; or

b. hospitals shall be deemed disproportionate share providers if their low-income utilization rates are in excess of 25 percent. Low-income utilization rate is the sum of:

i. the fraction (expressed as a percentage). The numerator is the sum (for the period) of the total Medicaid patient revenues plus the amount of the cash subsidies for patient services received directly from state and local governments. The denominator is the total amount of revenues of the hospital for patient services (including the amount of such cash subsidies) in the cost reporting period from the financial statements; and

ii. the fraction (expressed as a percentage). The numerator is the total amount of the hospital's charges for inpatient services which are attributable to charity (free) care in a period, less the portion of any cash subsidies as described in §2503.A.4.b.i in the period which are reasonably attributable to inpatient hospital services. The denominator is the total amount of the hospital's charges for inpatient hospital services in the period. For public providers furnishing inpatient services free of charge or at a nominal charge, this percentage shall not be less than zero. This numerator shall not include contractual allowances and discounts (other than for indigent patients ineligible for Medicaid), i.e., reductions in charges given to other third-party payers, such as HMOs, Medicare, or Blue Cross; nor charges attributable to Hill-Burton obligations. A hospital providing "free care" must submit its criteria and procedures for identifying patients who qualify for free care to the Bureau of Health Services Financing for approval. The policy for free care must be posted prominently and all patients must be advised of the availability of free care and the procedures for applying. Hospitals not in compliance with free care criteria will be subject to recoupment of DSH and Medicaid payments; or

5. effective November 3, 1997, be a small rural hospital as defined in §2705.A.2.a-h; or

6. effective September 15, 2006, be a non-rural community hospital as defined in §2701.A.; and

7. effective July 1, 1994, must also have a Medicaid inpatient utilization rate of at least 1 percent.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:655 (April 2008).

Chapter 27. Qualifying Hospitals

§2701. Non-Rural Community Hospitals

A. Definitions

Non-Rural Community Hospital—a non-state hospital that does not receive disproportionate share payments under any other qualification category. These hospitals may be either publicly or privately owned. In addition, psychiatric,

rehabilitation and long term hospitals may qualify for this category.

B. DSH payments to a public, non-rural community hospital shall be calculated as follows.

1. Each qualifying public, non-rural community hospital shall certify to the Department of Health and Hospitals its uncompensated care costs. The basis of the certification shall be 100 percent of the hospital's allowable costs for these services, as determined by the most recently filed Medicare/Medicaid cost report. The certification shall be submitted in a form satisfactory to the department no later than October 1 of each fiscal year. The department will claim the federal share for these certified public expenditures. The department's subsequent reimbursement to the hospital shall be in accordance with the qualifying criteria and payment methodology for non-rural community hospitals included in Act 18 and may be more or less than the federal share so claimed. Qualifying public, non-rural community hospitals that fail to make such certifications by October 1 may not receive Title XIX claim payments or any disproportionate share payments until the department receives the required certifications.

C. Private, non-rural community hospitals located in the New Orleans and Lake Charles Metropolitan Statistical Areas (MSA) shall be reimbursed as follows.

1. If the hospital's qualifying uninsured cost is less than 3.5 percent of total hospital cost, the payment shall be 30 percent of qualifying uninsured cost.

2. If the hospital's qualifying uninsured cost is equal to or greater than 3.5 percent of the total hospital cost, but less than 6.5 percent, the payment shall be 50 percent of qualifying uninsured cost.

3. If the hospital's qualifying uninsured cost is equal to or greater than 6.5 percent of total hospital cost, but less than or equal to 8 percent, the payment shall be 80 percent of qualifying uninsured cost.

4. If the hospital's qualifying uninsured cost is greater than 8 percent of total hospital cost, the payment shall be 90 percent of qualifying uninsured cost for the portion in excess of 8 percent and 80 percent of qualifying uninsured cost for the portion equal to 8 percent of total hospital cost.

D. Private, non-rural community hospitals located in all other parts of the state shall be reimbursed as follows.

1. If the hospital's qualifying uninsured cost is less than 3.5 percent of total hospital cost, no payment shall be made.

2. If the hospital's qualifying uninsured cost is equal to or greater than 3.5 percent of total hospital cost, but less than 6.5 percent, the payment shall be 50 percent of an amount equal to the difference between the total qualifying uninsured cost as a percent of total hospital cost and 3.5 percent of total hospital cost.

3. If the hospital's qualifying uninsured cost is equal to or greater than 6.5 percent of total hospital cost, but less than or equal to 8 percent, the payment shall be 80 percent of an amount equal to the difference between the total qualifying uninsured cost as a percent of total hospital cost and 3.5 percent of total hospital cost.

4. If the hospital's qualifying uninsured cost is greater than 8 percent of total hospital cost, the payment shall be 90 percent of qualifying uninsured cost for the portion in

excess of 8 percent of total hospital cost and 80 percent of an amount equal to 4.5 percent of total hospital cost.

5. Qualifying uninsured cost as used for this distribution shall mean the hospital's total charges for care provided to uninsured patients multiplied by the hospital's appropriate cost-to-charge ratio for the applicable cost report period.

E. The department shall determine each qualifying hospital's uninsured percentage on a hospital-wide basis utilizing charges for dates of service from July 1, 2006 through June 30, 2007.

F. Hospitals shall submit supporting patient specific data in a format specified by the department, reports on their efforts to collect reimbursement for medical services from patients to reduce gross uninsured costs and their most current year-end financial statements. Those hospitals that fail to provide such statements shall receive no payments and any payment previously made shall be refunded to the department. The deadline for submission of data used to determine qualification and the initial payment is November 20, 2007. Submitted hospital charge data must agree with the hospital's monthly revenue and usage reports which reconcile to the monthly and annual financial statements. The submitted data shall be subject to verification by the department before DSH payments are made.

G. In the event that the total payments calculated for all recipient hospitals are anticipated to exceed the total amount appropriated, the department shall reduce payments on a pro rata basis in order to achieve a total cost that is not in excess of the amounts appropriated for this purpose. The \$87,000,000 appropriation for the non-rural community hospital pool shall be effective only for state fiscal year 2008 and distributions from the pool shall be considered nonrecurring.

H. Of the total appropriation for the non-rural community hospital pool, \$7,000,000 shall be allocated to public and private non-rural community hospitals with a distinct part psychiatric unit.

1. To qualify for this payment, hospitals must be a public or private non-rural community hospital, as defined in §2701.A., that has a Medicaid enrolled distinct part psychiatric unit with uninsured cost of 3.5 percent or greater, as defined in §2701.D.5.

2. Payment shall be calculated by dividing each qualifying hospital's distinct part psychiatric unit's uninsured days by all qualifying psychiatric unit qualifying uninsured days and multiplying by \$7,000,000.

I. The DSH payment shall be made as an annual lump sum payment.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:655 (April 2008).

§2703. Federally Mandated Statutory Hospitals Not Included in Any Other Group

A. Definition

Federally Mandated Statutory Hospital Not Included in Any Other Group—a hospital that meets the federal DSH statutory utilization requirements in §2503.A.4.a-b.ii. and is not included in any other qualifying group.

B. DSH payments to individual federally mandated statutory hospitals shall be based on actual paid Medicaid

days for a six-month period ending on the last day of the last month of that period, but reported at least 30 days preceding the date of payment. Annualization of days for the purposes of the Medicaid days pool is not permitted. The amount will be obtained by DHH from a report of paid Medicaid days by service date.

C. Disproportionate share payments for individual hospitals in this group shall be calculated based on the product of the ratio determined by:

1. dividing each qualifying hospital's actual paid Medicaid inpatient days for a six-month period ending on the last day of the month preceding the date of payment (which will be obtained by the department from a report of paid Medicaid days by service date) by the total Medicaid inpatient days obtained from the same report of all qualified hospitals included in this group. Total Medicaid inpatient days include Medicaid nursery days but do not include skilled nursing facility or swing-bed days; then

2. multiplying by the state disproportionate share appropriated amount for this pool of hospitals.

D. A pro rata decrease necessitated by conditions specified in §2501.B.1-6 for hospitals in this group will be calculated based on the ratio determined by:

1. dividing the hospitals' Medicaid days by the Medicaid days for all qualifying hospitals in this group; then

2. multiplying by the amount of disproportionate share payments calculated in excess of the federal disproportionate share allotment or the state disproportionate share appropriated amount.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:656 (April 2008).

§2705. Small Rural Hospitals

A. Definitions

Net Uncompensated Cost—the cost of furnishing inpatient and outpatient hospital services, net of Medicare costs, Medicaid payments (excluding disproportionate share payments), costs associated with patients who have insurance for services provided, private payer payments, and all other inpatient and outpatient payments received from patients. Any uncompensated costs of providing health care services in a rural health clinic licensed as part of a small rural hospital as defined below shall be considered outpatient hospital services in the calculation of uncompensated costs.

Small Rural Hospital—a hospital (excluding a long-term care hospital, rehabilitation hospital, or freestanding psychiatric hospital but including distinct part psychiatric units) that meets the following criteria:

a. had no more than 60 hospital beds as of July 1, 1994 and is located in a parish with a population of less than 50,000 or in a municipality with a population of less than 20,000; or

b. meets the qualifications of a sole community hospital under 42 CFR §412.92(a), or:

i. met the qualifications of a sole community hospital as of June 30, 2005 and subsequently converts to critical access hospital status; or

c. had no more than 60 hospital beds as of July 1, 1999 and is located in a parish with a population of less than 17,000 as measured by the 1990 census; or

d. had no more than 60 hospital beds as of July 1, 1997 and is a publicly-owned and operated hospital that is located in either a parish with a population of less than 50,000 or a municipality with a population of less than 20,000; or

e. had no more than 60 hospital beds as of June 30, 2000 and is located in a municipality with a population, as measured by the 1990 census, of less than 20,000; or

f. had no more than 60 beds as of July 1, 1997 and is located in a parish with a population, as measured by the 1990 and 2000 census, of less than 50,000; or

g. was a hospital facility licensed by the department that had no more than 60 hospital beds as of July 1, 1994, which hospital facility:

i. has been in continuous operation since July 1, 1994;

ii. is currently operating under a license issued by the department; and

iii. is located in a parish with a population, as measured by the 1990 census, of less than 50,000; or

h. has no more than 60 hospital beds or has notified the department as of March 7, 2002 of its intent to reduce its number of hospital beds to no more than 60, and is located in a municipality with a population of less than 13,000 and in a parish with a population of less than 32,000 as measured by the 2000 census; or

i. has no more than 60 hospital beds or has notified DHH as of December 31, 2003 of its intent to reduce its number of hospital beds to no more than 60 and is located:

i. as measured by the 2000 census, in a municipality with a population of less than 7,000;

ii. as measured by the 2000 census, in a parish with a population of less than 53,000; and

iii. within 10 miles of a United States military base; or

j. has no more than 60 hospital beds as of September 26, 2002 and is located:

i. as measured by the 2000 census, in a municipality with a population of less than 10,000; and

ii. as measured by the 2000 census, in a parish with a population of less than 33,000; or

k. has no more than 60 hospital beds as of January 1, 2003 and is located:

i. as measured by the 2000 census, in a municipality with a population of less than 11,000; and

ii. as measured by the 2000 census, in a parish with a population of less than 90,000; or

l. has no more than 40 hospital beds as of January 1, 2005, and is located:

i. in a municipality with a population of less than 3,100; and

ii. in a parish with a population of less than 15,800 as measured by the 2000 census.

B. Payment based on uncompensated cost for qualifying small rural hospitals shall be in accordance with the following two pools.

1. *Public (Nonstate) Small Rural Hospitals*—small rural hospitals as defined in §2705.A.2 which are owned by a local government.

2. *Private Small Rural Hospitals*—small rural hospitals as defined in §2705.A.2 that are privately owned.

C. Payment to hospitals included in §2705.B.1-2 is equal to each qualifying rural hospital's pro rata share of uncompensated cost for all hospitals meeting these criteria for the latest filed cost report multiplied by the amount set for each pool. If the cost reporting period is not a full period (12 months), actual uncompensated cost data from the previous cost reporting period may be used on a pro rata basis to equate a full year.

D. Pro Rata Decrease

1. A pro rata decrease necessitated by conditions specified in §2501.B.1-6 for rural hospitals described in this §2705 will be calculated using the ratio determined by:

a. dividing the qualifying rural hospital's uncompensated costs by the uncompensated costs for all rural hospitals in §2705; then

b. multiplying by the amount of disproportionate share payments calculated in excess of the federal DSH allotment or the state DSH appropriated amount.

2. No additional payments shall be made after the final payment is disbursed by the department for the state fiscal year. Recoupment shall be initiated upon completion of an audit if it is determined that the actual uncompensated care costs for the state fiscal year for which the payment is applicable is less than the actual amount paid.

E. Qualifying hospitals must meet the definition for a small rural hospital contained in §2705.A.2. Qualifying hospitals must maintain a log documenting the provision of uninsured care as directed by the department.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:657 (April 2008).

§2707. Public State-Operated Hospitals

A. Definitions

Net Uncompensated Cost—the cost of furnishing inpatient and outpatient hospital services, net of Medicare costs, Medicaid payments (excluding disproportionate share payments), costs associated with patients who have insurance for services provided, private payer payments, and all other inpatient and outpatient payments received from patients.

Public State-Operated Hospital—a hospital that is owned or operated by the state of Louisiana.

B. DSH payments to individual public state-owned or operated hospitals shall be up to 100 percent of the hospital's net uncompensated costs. Final payment will be based on the uncompensated cost data per the audited cost report for the period(s) covering the state fiscal year.

C. In the event that it is necessary to reduce the amount of disproportionate share payments to remain within the federal disproportionate share allotment, the department shall calculate a pro rata decrease for each public state-owned or operated hospital based on the ratio determined by:

1. dividing that hospital's uncompensated cost by the total uncompensated cost for all qualifying public state-owned or operated hospitals during the state fiscal year; then

2. multiplying by the amount of disproportionate share payments calculated in excess of the federal disproportionate allotment.

D. It is mandatory that hospitals seek all third party payments including Medicare, Medicaid and other third party carriers and payments from patients. Hospitals must

certify that excluded from net uncompensated cost are any costs for the care of persons eligible for Medicaid at the time of registration. Acute hospitals must maintain a log documenting the provision of uninsured care as directed by the department. Hospitals must adjust uninsured charges to reflect retroactive Medicaid eligibility determination. Patient specific data is required after July 1, 2003. Hospitals shall annually submit:

1. an attestation that patients whose care is included in the hospitals' net uncompensated cost are not Medicaid eligible at the time of registration; and

2. supporting patient-specific demographic data that does not identify individuals, but is sufficient for audit of the hospitals' compliance with the Medicaid ineligibility requirement as required by the department, including:

a. patient age;

b. family size;

c. number of dependent children; and

d. household income.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:658 (April 2008).

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

Alan Levine
Secretary

0804#075

RULE

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

**Medicaid Eligibility—Termination of
Presumptive Eligibility for Pregnant Women**

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

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repeals the provisions of the January 1, 1989 and September 20, 1999 Rules governing presumptive eligibility for pregnant women to terminate this optional coverage. This limited-benefit coverage is no longer needed since broader Medicaid coverage is available to optional low-income pregnant women and processing times for pregnant women applications has been reduced substantially.

Alan Levine
Secretary

0804#076

RULE

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

Mental Health Rehabilitation Program—Moratorium on Mental Health Rehabilitation Providers (LAC 50:XV.701)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has repealed LAC 50:XV.701 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 1. Mental Health Rehabilitation

Chapter 7. Provider Participation Requirements

Subchapter A. Certification and Enrollment

§701. Provider Enrollment Moratorium

A. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:668 (March 2005), amended LR 32:2069 (November 2006), repealed LR 34:659 (April 2008).

Alan Levine
Secretary

0804#077

RULE

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

State Children's Health Insurance Program
Louisiana Children's Health Insurance Program
(LAC 50:III.Chapters 201 and 205)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted LAC 50:III.Chapters 201 and 205 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XXI of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part III. Eligibility

Subpart 11. State Children's Health Insurance Program

Chapter 201. Louisiana Children's Health Insurance

Program (LaCHIP)—Phases 1-3

§20101. General Provisions

A. Section 4901 of the Balanced Budget Act of 1997, Public Law 105-33, established provisions under Title XXI of the Social Security Act to provide health insurance coverage to uninsured, low-income children through an expansion of existing Medicaid Programs, creation of stand-

alone programs, or a combination of both. The department implemented the provisions of Title XXI as a Medicaid expansion program called the Louisiana Children's Health Insurance Program (LaCHIP).

B. Effective October 20, 1998, the department implemented phase one of LaCHIP which provides coverage to uninsured children with family income up to 133 percent of the federal poverty level.

C. Effective October 1, 1999, the department implemented phase two of LaCHIP which provides coverage to uninsured children with family income between 133 and 150 percent of the federal poverty level.

D. Effective January 1, 2001, the department implemented phase three of LaCHIP which provides coverage to uninsured children with family income up to 200 percent of the federal poverty level.

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

HISTORICAL NOTE: Repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:659 (April 2008).

§20103. Eligibility Criteria

A. The LaCHIP Medicaid program provides health insurance coverage to low-income, uninsured children who meet the following criteria:

1. are under the age of 19;
2. are from families with income at or below 133 percent of the federal poverty level; and
3. do not meet the state's Medicaid eligibility criteria in effect as of March 31, 1997.

B. The following children are excluded from coverage under the LaCHIP Medicaid expansion:

1. those currently eligible for Medicaid;
2. those currently covered by other types of health insurance;
3. inmates of a public institution; and
4. patients in an institution for mental disease.

C. Children are considered uninsured, for the purpose of determining eligibility for LaCHIP, if they do not have creditable coverage for health insurance.

1. The department is adopting the definition of creditable coverage for health insurance, the definition for health insurance coverage and the exceptions to health insurance coverage as cited in Section 2110 of the Social Security Act which references 42 U.S.C. §300gg(c)(1), §300gg-91(b)(1), and §300 gg-91(c)(1).

D. Children shall not be considered uninsured if their creditable coverage is dropped within the three calendar months prior to application for LaCHIP benefits unless the reason for dropping the coverage is loss of the employment that provided access to insurance coverage.

1. For the purposes of this Rule, the term *loss of employment* shall include the following:

- a. loss of employment due to a lay-off, downsizing, resignation, firing, etc.;
- b. death of the parent whose employment provided access to dependent coverage;
- c. change of employment to an employer that does not provide an option for dependent coverage;
- d. discontinuation of health benefits for all employees of the applicant's employer;

e. expiration of coverage periods established by the Consolidated Omnibus Reconciliation Act of 1985 (COBRA); or

f. termination of health benefits due to a long term disability of the parent whose employment provided access to dependent coverage.

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

HISTORICAL NOTE: Repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:659 (April 2008).

Chapter 205. Louisiana Children's Health Insurance Program (LaCHIP)—Phase V

§20501. General Provisions

A. Effective April 1, 2008, the department implements phase five of LaCHIP as a stand-alone program under the provisions of Title XXI of the Social Security Act to provide coverage to uninsured children with family income from 200 percent up to 250 percent of the federal poverty level.

B. The department retains the oversight and management of this LaCHIP expansion with health care benefits provided through the Louisiana Division of Administration, Office of Group Benefits Preferred Provider Organization (PPO) plan.

C. Phase five is a cost-sharing program. Families who are enrolled in phase five of LaCHIP will be responsible for paying premiums, co-payments and deductibles.

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

HISTORICAL NOTE: Repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:660 (April 2008).

§20503. Eligibility Criteria

A. This LaCHIP stand-alone program provides health care coverage to uninsured children who meet the following criteria:

1. are under the age of 19;
2. have family income from 200 percent up to 250 percent of the federal poverty level;
3. do not have creditable health insurance coverage; and
4. are not eligible for any other Medicaid program.

B. For the purpose of determining eligibility for phase five of LaCHIP, children are considered to be uninsured if they do not have creditable health insurance at the time of application. Children shall not be considered uninsured if their creditable coverage is dropped within the 12 calendar months prior to application, unless the reason for dropping the coverage is considered to be involuntary loss of coverage. Loss of coverage for one of the following reasons shall be considered involuntary loss of coverage:

1. loss of coverage resulting from divorce or death of a parent;
2. the child reaches his maximum lifetime coverage amount;
3. expiration of coverage under a Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1985 continuation provision within the meaning given in 42 U.S.C. 300gg-91;
4. involuntary termination of health benefits due to:
 - a. a long-term disability or medical condition;
 - b. termination of employment, including lay-off or business closure; or
 - c. reduction in the number of hours of employment;

5. changing to a new employer who does not provide an option for dependent coverage; or

6. the family terminated health insurance coverage for the child because private insurance is not cost effective (the cost to the child's family for the coverage exceeded 10 percent of the family's income).

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

HISTORICAL NOTE: Repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:660 (April 2008).

§20505. Covered Services

A. Children covered in phase five of the LaCHIP expansion shall receive benefits through the Office of Group Benefits PPO plan's array of covered services including:

1. inpatient hospital services:
 - a. pre-certification is required for hospital admissions. Emergency services are covered if, upon review, presentation is determined to be life-threatening, resulting in admission to inpatient, partial hospital or intensive outpatient level of care;
2. outpatient hospital services:
 - a. the relative therapies require pre-certification;
3. physician services;
4. surgical procedures;
5. clinic services and other ambulatory health care services;
6. prescription drugs;
7. laboratory and radiological services;
8. pre-natal care and pre-pregnancy family services and supplies;
9. inpatient and outpatient mental health services other than those listed in any other provisions of §20503:
 - a. these services include those furnished in a state-operated mental hospital, residential facility or other 24 hour therapeutically-planned structural services. Pre-certification is required for these services. Emergency services are covered if, upon review, presentation is determined to be life-threatening, resulting in admission to inpatient, partial hospital or intensive outpatient level of care;
 - b. inpatient and outpatient visits are limited to medically necessary services not to exceed a combined 52 visits per plan year for mental health and substance abuse services;
10. durable medical equipment;
11. nursing care services:
 - a. the state employee's health plan only covers home health care services coordinated through case management;
12. dental services;
13. inpatient substance abuse treatment services, including residential substance abuse treatment services:
 - a. these services are only available to children receiving benefits in the state group benefits PPO plan through phase five of LaCHIP. Inpatient admissions must be pre-certified. Emergency services are covered if, upon review, presentation is determined to be life-threatening, resulting in admission to inpatient, partial hospital or intensive outpatient level of care;
 - b. inpatient days are limited to medically necessary services not to exceed a combined 45 visits per plan year for mental health and substance abuse services;
14. outpatient substance abuse treatment services;

a. these services are only available to children receiving benefits in the state group benefits PPO plan through phase five of LaCHIP. All services must be pre-certified;

b. outpatient visits are limited to medically necessary services not to exceed a combined 52 visits per plan year for mental health and substance abuse services;

15. case management services:

a. these services are only available to children receiving benefits in the state group benefits PPO plan through phase five of LaCHIP. Case management services are only available to assist members in transitioning out of an inpatient care setting;

16. physical therapy, occupational therapy and services for individuals with speech, hearing and language disorders:

a. physical and occupational therapy is limited to 50 visits per year and speech therapy is limited to 26 visits per year;

17. hospice care:

a. the state group benefits PPO plan only covers hospice services coordinated through case management;

18. medical transportation, and:

a. medical transportation is limited to emergency ambulance services only;

19. any other medically necessary medical, diagnostic, screening, preventive, restorative, remedial, therapeutic or rehabilitative services.

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

HISTORICAL NOTE: Repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:660 (April 2008).

§20507. Cost Sharing

A. Phase five of LaCHIP is a cost-sharing program with annual aggregate of premiums, deductibles and co-payments limited to no more than 5 percent of the family's annual income. Families who have been exempted from cost-sharing as members of federally recognized Native American Tribes will not be subject to co-payments.

B. The following cost-sharing criteria shall apply.

1. Premiums. When family income is between 201 percent and 250 percent of the federal poverty level, families shall be responsible for paying a \$50 per month premium.

a. Premiums are due by the first of each month. If payment is not received by the tenth of the month, the responsible party shall be notified that coverage may be terminated if payment is not received by the twenty-first of the month.

2. Deductibles. A \$150 deductible is applicable to hospital emergency room visits. If the child is admitted, the deductible shall be waived. A separate \$200 deductible is applicable to mental health or substance abuse services. Payment of all deductibles is the responsibility of the family.

3. Co-Insurance or Co-Payments. Enrollees are responsible for paying 10 percent of the contracted rate for most of the covered services rendered, with the exception of the following services:

a. hospice services require payment of 20 percent of the negotiated rate;

b. mental health and substance abuse services require payment of 20 percent of the negotiated rate;

c. home health services require payment of 30 percent of the negotiated rate;

d. prescription drug services require payment of 50 percent of the negotiated rate or \$50 maximum payment, and:

i. after \$1,200 per person per plan year, the enrollee's co-payment shall be \$15 for brand name drugs. There will be no co-payment for generic drugs;

e. ground ambulance transportation requires a \$50 co-payment and licensed air ambulance transportation requires a \$250 co-payment.

C. Non-payment of premiums shall result in disenrollment from LaCHIP, effective the following month. Non-payment of associated co-insurance or deductibles may result in a provider's refusal to render services, but the recipient will retain LaCHIP coverage.

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

HISTORICAL NOTE: Repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:661 (April 2008).

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

Alan Levine
Secretary

0804#078

RULE

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

Third Party Liability—Provider Billing and Trauma Recovery (LAC 50:I.8345)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has amended LAC 50:I.8345 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part I. Administration

Subpart 9. Recovery

Chapter 83. Third Party Liability

Subchapter D. Provider Billing and Trauma Recovery

§8345. Provider Responsibilities

A. A provider who pursues a liable or potentially liable third party for the difference must:

1. establish his right to payment separate of any amounts claimed and established by the recipient, such as in compliance with Louisiana Revised Statute 9:4751 et seq.; or

a. - c. Repealed.

2. obtain a settlement or award in his own name separate from a settlement or award obtained by, or on behalf of, the recipient; or

3. enter into a written agreement with the recipient, the recipient's legal representative, or recipient's attorney in

fact that specifies the amount which will be paid to the provider separate from the settlement or award obtained by the recipient.

B. A provider, who has filed and accepted Medicaid payment and who wishes to pursue the difference, shall submit written notification containing information relating to the existence or possible existence of a liable third party to the Medicaid Third Party Recovery Unit within 365 days of the accident or incident for which the third party is or may be liable.

1. The notice shall contain the:
 - a. Medicaid recipient's name;
 - b. Medicaid recipient's date of birth;
 - c. Medicaid recipient's Social Security number or Medicaid identification number, or both; and
 - d. date of the accident or incident.

C. A provider who has filed and accepted a Medicaid payment may accept or collect the difference from a third party. Within 15 working days of receipt of the difference, the provider or his agent shall notify the Medicaid Third Party Recovery Unit to determine whether it has received full reimbursement for all payments made to all providers for health care services rendered to a Medicaid recipient as a result of an accident or incident. A provider shall not disburse the difference until receipt of notification from the Medicaid Third Party Recovery Unit that it has been made "whole". Medicaid shall be made whole.

1. In the event Medicaid agrees to and accepts less than full reimbursement for all payments made on behalf of a Medicaid recipient, excluding any partial payment, Medicaid shall be deemed to have been made whole. Medicaid shall have 15 working days from receipt of notice to notify the provider whether it has been made whole.

2. When Medicaid has not been made whole, the provider shall return the difference to the remitter within 15 working days of the date of Medicaid's notice and shall also provide confirmation of the remittance to Medicaid.

D. In the event a provider has knowledge that an individual is a Medicaid recipient and is receiving or has received health care services which may be covered by Medicaid as a result of the accident or incident, the provider is prohibited from:

1. demanding any payment from the Medicaid recipient or his representative; or
2. pursuing collection of any type against the Medicaid recipient or his representative.

E. Nothing in this Subchapter shall prevent a provider from demanding payment from, or pursuing any type of collection efforts for the difference against any liable or potentially liable third party, directly or through the Medicaid recipient or his representative who is demanding payment from any liable or potentially liable third party.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:463 (March 2007), amended LR 34:661 (April 2008).

Alan Levine
Secretary

0804#080

RULE

Department of Health and Hospitals Office of the Secretary Office for Citizens with Developmental Disabilities

Home and Community-Based Services Waivers
Direct Support Professionals Wage Enhancement
Support Coordination Services
(LAC 50:XXI.5715, 5901, and 6101)

The Department of Health and Hospitals, Office for Citizens with Developmental Disabilities has amended LAC 50:XXI.Chapter 57 through 61 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXI. Home and Community Based Services Waivers

Subpart 5. Supports Waiver

Chapter 57. Covered Services

§5715. Support Coordination

A. Support coordination is a service that will assist recipients in gaining access to all of their necessary services, as well as medical, social, educational and other services, regardless of the funding source for the services. Support coordinators shall be responsible for on-going monitoring of the provision of services included in the recipient's approved CPOC.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 34:662 (April 2008).

Chapter 59. Provider Participation

§5901. General Provisions

A. - C.5. ...

6. Support Coordination. Providers must be licensed as support coordination agencies and enrolled in the Medicaid Program to deliver these services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:1607 (September 2006), amended LR 34:662 (April 2008).

Chapter 61. Reimbursement

§6101. Reimbursement Methodology

A. - H. ...

I. Direct Support Professionals Wage Enhancement

1. Effective May 20, 2007, an hourly wage enhancement payment in the amount of \$2 will be reimbursed to providers for full-time equivalent (FTE) direct support professionals who provide the following services to support waiver recipients:

- a. habilitation;
- b. supported employment;
- c. day habilitation;

- d. center-based respite; and
- d. prevocational services.

2. At least 75 percent of the wage enhancement shall be paid in the aggregate to direct support workers as wages. If less than 100 percent of the enhancement is paid in wages, the remainder, up to 25 percent, shall be used to pay employer-related taxes, insurance and employee benefits.

3. Effective September 20, 2007, the minimum hourly rate paid to direct support professionals shall be the federal minimum wage in effect on February 20, 2007 plus 75 percent of the wage enhancement or the current federal minimum wage, whichever is higher.

4. Providers shall be required to submit a certified wage register to the department verifying the direct support professionals' gross wages for the quarter ending March 31, 2007. The wage register will be used to establish a payroll baseline for each provider. It shall include the following information:

- a. gross wage paid to the direct support professional(s);
- b. total number of direct support hours worked; and
- c. the amount paid in employee benefits.

5. A separate report shall be submitted for paid overtime.

6. The provider shall submit quarterly wage reports that verify that the 75 percent wage enhancement has been paid to the appropriate staff.

7. The provider shall submit a report, according to the department's specifications, that will be used to measure the effectiveness of the wage enhancement.

8. The wage enhancement payments reimbursed to providers shall be subject to audit by the department.

9. Noncompliance or failure to demonstrate that the wage enhancement was paid directly to direct support professionals may result in:

- a. forfeiture of eligibility for wage enhancement payments;
- b. recoupment of previous wage enhancement payments;
- c. Medicaid fraud charges; and
- d. disenrollment from the Medicaid Program.

J. Support Coordination. Support coordination shall be reimbursed at a fixed monthly rate in accordance with the terms of the established contract.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:1607 (September 2006), amended LR 34:662 (April 2008).

Alan Levine
Secretary

0804#073

RULE

Department of Health and Hospitals Office of the Secretary Office for Citizens with Developmental Disabilities

Targeted Case Management—Individuals with
Developmental Disabilities
(LAC 50:XV.10501, 10505 and 11701)

The Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities has amended LAC 50:XV.10501, 10505 and 11701 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the Administrative Procedure Act, R. S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 7. Targeted Case Management

Chapter 105. Provider Participation

§10501. Participation Requirements

A. - D.7. ...

8. assure the recipient's right to elect to receive or terminate case management services (except for recipients in the New Opportunities Waiver, Elderly and Disabled Adult Waiver and Children's Choice Waiver Programs). Assure that each recipient has freedom of choice in the selection of an available case management agency (every six months), a qualified case manager or other service providers and the right to change providers or case managers;

9. - 12. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1037 (May 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:1608 (September 2006), amended LR 34:663 (April 2008).

§10505. Staff Education and Experience

A. - E.1.d. ...

- e. Targeted EPSDT; and
- f. Children's Choice Waiver;
- g. Repealed.

2. - 2.e. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 29:38 (January 2003), LR 30:1038 (May 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:1608 (September 2006), amended LR 34:663 (April 2008).

Chapter 117. Individuals with Developmental Disabilities

§11701. Introduction

A. The targeted population for case management services shall consist of individuals with developmental disabilities who are participants in the New Opportunities Waiver.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1043 (May 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:1608 (September 2006), amended LR 34:664 (April 2008).

Alan Levine
Secretary

0804#079

RULE

**Department of Insurance
Office of the Commissioner**

**Regulation 95—Public Fire Protection Grading
Review Board (LAC 37:XIII.Chapter 129)**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted under R.S. 22:1 et seq., 22:1405(J), and 22:1405.1 through 1405.3, that the Commissioner of Insurance has promulgated Regulation 95 to implement the provisions of Acts 2006, No. 809 of the Regular Session of the Louisiana Legislature, which mandates that the Department of Insurance establish a board of review within the department to review public fire protection grading issued by the Property Insurance Association of Louisiana when a request for such review is properly submitted.

Title 37

INSURANCE

PART XIII. Regulations

**Chapter 129. Regulation Number 95—Public Fire
Protection Grading Board of Review**

§12901. Purpose

A. The purpose of Regulation 95 is to implement the provisions of Acts 2006, No. 809, Regular Session of the Louisiana Legislature which mandates that a board of review be established within the department of Insurance to review a public fire protection grading issued by the Property Insurance Association of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1405(J), 1405.1, 1405.2, 1405.3, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:664 (April 2008).

§12903. Scope

A. Regulation 95 sets forth the procedures for review of a public fire protection grading issued by the Property Insurance Association of Louisiana, R.S. 22:1405.1 through 22:1405.3.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1405(J), 1405.1, 1405.2, 1405.3, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:664 (April 2008).

§12905. Authority

A. Regulation 95 is issued pursuant to the authority vested in the Commissioner of Insurance pursuant to the provisions of R.S. 49:953 et seq., of the Administrative Procedure Act; R.S. 22:3, and specifically 22:1405(J) and 1405.1 through 1405.3.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1405(J), 1405.1, 1405.2, 1405.3, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:664 (April 2008).

§12907. Definitions

A. For the purposes of Regulation 95, these terms shall have the meaning ascribed herein unless the context clearly indicates otherwise.

Board—board of review established by the Louisiana Department of Insurance to review a public fire protection grading issued by the Property Insurance Association of Louisiana pursuant to R.S. 22:1405.1.A.

Commissioner—Commissioner of Insurance.

Fire Chief—the highest ranking (appointed, elected, or designated) fire fighter in a fire protection district or other recognized fire protection agency. For the purposes of this regulation and other than §12907, Definitions, the term *fire chief* shall be inclusive of the term *fire chief's designee*.

Fire Chief's Designee—that individual who is designated, in writing by the fire chief to the commissioner, as an individual authorized to request a review of a public fire protection grading issued by the PIAL.

Fire Protection District—a municipal fire department or a state recognized fire service organization graded by the PIAL.

PIAL—Property Insurance Association of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1405(J), 1405.1, 1405.2, 1405.3, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:664 (April 2008).

§12909. Eligibility to Request Review

A. A fire chief shall have authority to request a review of a public fire protection grading issued by the PIAL if the following requirements of R.S. 22:1405.2 have been satisfied:

1. the fire chief has attended the Professional Grading Assistance Program class, or has attended a class on fire suppression grading schedule sponsored by the Louisiana Fire Chief's Association or the Louisiana State Fireman's Association, or has attended a training seminar related to fire suppression grading that has been approved by either the Property Insurance Association of Louisiana or the Louisiana State University Fire and Emergency Training Institute; and

2. the fire chief sent a dispute letter to PIAL within 60 days of receipt of PIAL's public fire protection grading that specifically identified the fire chief's reasons for disagreement with PIAL's grading.

B. Upon receipt of the fire chief's dispute letter of a public fire protection grading, PIAL has 60 days to respond in writing to the fire chief. The PIAL response to the dispute letter shall specifically address each reason for a fire chief's disagreement with the public fire protection grading.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1405(J), 1405.1, 1405.2, 1405.3, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:664 (April 2008).

§12911. Request for Hearing

A. The fire chief shall make a written request for board review of the public fire protection grading to the commissioner within 60 days of PIAL's written response to the fire chief's dispute letter.

B. If PIAL fails to provide a written response to the fire chief's dispute letter of a public fire protection grading within 60 days of receipt of the dispute letter, the fire chief shall make a written request to the commissioner within 10 days of the expiration of the 60 day deadline for PIAL's response to the fire chief's dispute letter, for board review of the public fire protection grading.

C. The fire chief's written request for board review shall include, but not be limited to:

1. documentation that the fire chief or his designee has attended one of the classes listed in §12909.A.1;
2. a copy of the fire chief's dispute letter sent to PIAL with certified/registered mail post marks as referenced in §12923;
3. documentation used to support the fire chief's dispute of the public fire protection grading;
4. a copy of the initial questionnaire and other paperwork relevant to the dispute sent to PIAL by the fire chief;
5. a copy of the public fire protection grading report issued by PIAL for the fire protection district that is the subject of the request for the review with certified/registered mail post marks as referenced in §12923;
6. a copy of PIAL's written response to the fire chief's dispute letter, with certified/registered mail postmarks as referenced in §12923. If PIAL failed to respond to the fire chief's dispute letter, the fire chief shall include a statement to that effect; and
7. a copy of the fire chief's written request for review sent to the commissioner, with certified/registered mail postmarks as referenced in §12923.

D. The board may request additional information and documentation from either PIAL or the fire chief prior to the hearing.

E. The board shall have the authority to suspend a detrimental change in a public fire protection grading from the date a proper request for review is received until appropriate board action is completed and a written decision has been issued by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1405(J), 1405.1, 1405.2, 1405.3, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:665 (April 2008).

§12913. Hearing

A. The board shall convene a hearing within 90 days after a request for review of a public fire protection grading has been properly submitted.

B. The board shall hold the hearing in the public fire protection district for which a request for review has been filed.

C. The fire chief shall provide a convenient forum to conduct the hearing in the public fire protection district that is the subject of the review.

D. All testimony presented to the board during a hearing shall be conducted under oath.

E. A transcript shall be taken of all testimony provided in a hearing or rehearing.

F. The board shall have 90 days following the hearing to render its decision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1405(J), 1405.1, 1405.2, 1405.3, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:665 (April 2008).

§12915. Standard of Review

A. The board shall determine whether the public fire protection grading issued by the PIAL was proper according to PIAL guidelines in use at the time the disputed public fire protection grading was performed.

B. The board's evaluation of the public fire protection grading issued by PIAL shall include information provided to the board pursuant to §12911.C as well as all testimony presented at the hearing or rehearing.

C. Within 10 days following a written request by the board, PIAL shall provide to the board all records relating to the grading of the public fire protection district that is the subject matter of the pending review including but not limited to:

1. a copy of all information provided to PIAL by the fire chief at the time the disputed grading of the subject fire protection district was performed;
2. a complete copy of PIAL's public fire protection grading procedures and guidelines used to grade the subject fire protection district at the time the disputed grading was performed;
3. a copy of PIAL's public fire protection grading notice of results sent to the fire chief, with certified/registered mail postmarks as referenced in §12923;
4. a copy of the fire chief's dispute letter sent to PIAL, with certified/registered mail postmarks as referenced in §12923;
5. a copy of PIAL's written response to the fire chief's dispute letter, with certified/registered mail postmarks as referenced in §12923.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1405(J), 1405.1, 1405.2, 1405.3, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:665 (April 2008).

§12917. Rehearing

A. The fire chief and PIAL shall both have the right to request that the board reconsider its decision made pursuant to section §12911 through §12915.

B. The request for rehearing of a board decision made pursuant to section §12911 through §12915 shall be made in writing to the commissioner within 10 days after receipt of a written decision of the board. The request for rehearing shall state the grounds upon which a rehearing should be granted.

C. The commissioner shall transmit the rehearing request to the board within 10 days of receipt.

D. The board shall have 60 days from the receipt of a request for rehearing to make its decision to grant or deny the rehearing request.

E. The board shall give notice of its written decision to grant or deny a rehearing to both the fire chief and PIAL.

F. If the board grants the rehearing request, the board shall convene the rehearing within 90 days after granting the request for rehearing.

G. A rehearing shall be held at the Louisiana Department of Insurance.

H. The board may request additional information and documentation from either PIAL or the fire chief prior to a rehearing.

I. A transcript shall be taken of all testimony provided in a rehearing.

J. The board shall have 90 days following the rehearing to render its decision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1405(J), 1405.1, 1405.2, 1405.3, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:665 (April 2008).

§12919. Decisions by the Board of Review; Effective Date

A. The board shall transmit its written decision to both PIAL and the fire chief within 90 days of the completion of a hearing or rehearing.

B. The decision of the board shall instruct PIAL to:

1. reevaluate the disputed public fire protection grading for the subject fire protection district in accordance with the board's decision and instructions; or

2. impose the disputed public fire protection grading for the fire protection district.

C. The board's decision shall include written reasons for its decision.

D. Three members of the board shall constitute a quorum.

E. The vote of each member participating shall be recorded.

F. The chairman shall only vote in the event of a tie.

G. The decision of the board shall become effective 10 business days following the date it was rendered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1405(J), 1405.1, 1405.2, 1405.3, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:666 (April 2008).

§12921. Notice

A. The board shall provide public notice of a public fire protection grading review hearing or rehearing 10 business days prior to the hearing. This notice shall provide the time, date, and location of the public fire protection review hearing or rehearing.

B. Notice shall be published on the department's website and in a publication commonly circulated in the disputed fire protection district or other official journal for the municipal fire district or recognized fire protection agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1405(J), 1405.1, 1405.2, 1405.3, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:666 (April 2008).

§12923. Certified/Registered Mail

A. For the purposes of this regulation, select correspondence underlying a board review of a public fire

protection grading shall be made in writing and sent by certified/registered mail.

B. The following correspondence requires certified/registered post marks:

1. PIAL's original written notice of results of a public fire protection grading or original written notice of results of a change to an existing public fire protection grading;

2. the fire chief's written dispute letter to PIAL regarding PIAL's public fire protection grading;

3. PIAL's written response to the fire chief's dispute letter;

4. the fire chief's written request for board review sent to the commissioner;

5. the board's written decision rendered after a hearing or rehearing;

6. a fire chief's or PIAL's written request for rehearing sent to the commissioner;

7. the board's written decision to either grant or deny a rehearing;

8. the board's written request to PIAL for all records relating to the grading of the public fire protection district that is the subject of the review.

C. In the event that documents submitted are not in compliance with the certified/registered mail requirements in §12923.B, the board shall, based on the facts and circumstances, determine whether each document was originally transmitted and received in compliance with §12909 and 12911.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1405(J), 1405.1, 1405.2, 1405.3, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:666 (April 2008).

§12925. Effective Date

A. This regulation shall become effective upon final publication in the *Louisiana Register* and shall apply to acts or practices committed on or after the effective date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1405(J), 1405.1, 1405.2, 1405.3, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:666 (April 2008).

James J. Donelon
Commissioner

0804#052

RULE

Department of Public Safety and Corrections Board of Private Security Examiners

Registration, Training and Uniforms
(LAC 46:LIX.301, 405, and 701)

Under the authority of the Private Security Regulatory and Licensing Law, R.S. 37:3270 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the executive secretary has amended the Louisiana State Board of Private Security Examiners Regulations, LAC 46:LIX:301, 405, and 701.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part LIX. Private Security Examiners

Chapter 3. Security Officer Registration

§301. Qualifications and Requirements for Security Officer Registration

A. - F. ...

G. Licensee shall cut off the portion of the application identified as "temporary registration card," have the applicant complete required information, and instruct applicant to carry temporary registration card at all times while on duty. Temporary registration card is valid until applicant receives a permanent registration card from the board. The licensee or company, as the case may be, shall have 20 calendar days to issue the permanent card to the security officer once it has been received.

H. - K.4.c. ...

d. 9mm semiautomatic and shotgun;

e. - k. ...

l. 9mm semiautomatic and baton;

m. - q. ...

r. 45 caliber semiautomatic

K.5. - P.2 ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270, et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:753 (December 1987), LR 15:12 (January 1989), LR 15:848 (October 1989), LR 18:191 (February 1992), LR 23:588 (May 1997), LR 26:1072 (May 2000), LR 27:1241 (August 2001), LR 28:2204 (October 2002), LR 31:1599 (July 2005), LR 34:667 (April 2008).

Chapter 4. Training

§405. Firearms Training

A. - E.4. ...

5. 40 caliber semiautomatic weapon, minimum 4 inch barrel;

6. 45 caliber semiautomatic weapon, minimum 4 inch barrel, double action;

7. single action semiautomatic weapons are prohibited.

F. - H.1. ...

2. The shotgun course of fire shall be:

a. buckshot phase: recommend use of 9-pellet "OO" buckshot (may be fired with any buckshot);

b. 25 yards (5 rounds buckshot), total time: 35 seconds:

i. on command, assembly load two rounds of buckshot from shoulder and come to "ready gun position." Officer will have three additional rounds of buckshot on his/her person;

ii. on command, officer will fire two rounds from the shoulder (standing), then combat load three and fire three rounds from the shoulder (kneeling);

c. 15 yards (5 rounds buckshot), total time: 25 seconds:

i. officer will start with five rounds of buckshot on their person and an empty shotgun;

ii. on command, the officer will combat load five rounds of buckshot and fire two rounds from the shoulder (standing);

iii. officer will then cover target;

iv. on command, fire one round from the shoulder (standing) in two seconds;

v. on command, fire one round from the shoulder (standing) in two seconds;

vi. on command, fire one round from the shoulder (standing) in two seconds;

d. target: B-27 or P.O.S.T. qualification (P-1);

e. score: One point for hit on black of B-27 target. One point for hit on green of P-1 target:

i. total score should equal 75 percent with or without the slug phase.

I. - J.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270, et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:755 (December 1987), amended LR 15:13 (January 1989), LR 15:850 (October 1989), LR 18:192 (February 1992), LR 23:588 (May 1997), LR 26:1073 (May 2000), LR 27:1241 (August 2001), LR 28:2204 (October 2002), LR 31:1600 (July 2005), LR 34:667 (April 2008).

Chapter 7. Insignias, Markings, Restrictions, Uniforms

§701. Restrictions

A. - B. ...

C. Effective January 1, 2008, all uniforms worn by security officers shall contain the name of the company for whom they are employed. Effective July 1, 2008, all outerwear worn by security officers shall contain the name of the company for whom they are employed.

D. All requests for plain clothes security officers shall be made to the board and approval in writing from the board must first be obtained prior to any security officer being allowed to work an assignment out of uniform.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:758 (December 1987), amended LR 15:14 (January 1989), LR 15:852 (October 1989), LR 18:195 (February 1992), LR 26:1074 (May 2000), LR 34:667 (April 2008).

Wayne R. Rogillio
Executive Secretary

0804#029

RULE

Department of Revenue
Policy Services Division

Drug Free Workplace and Drug Testing
(LAC 61:I.101)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with Executive Orders KBB 2005-08 and 2005-11 and R.S. 49:1001 et seq., the Department of Revenue, Policy Services Division, has amended LAC 61:I.101, which governs drug testing in the workplace.

The Rule provides additional definitions, detailed explanations, and the consequences of violating this regulation. The department has incorporated an alcohol-free workplace in conjunction with the already established drug-

free workplace, clarified the actions that shall take place in the event that an employee violates the regulation, provided an exception from pre-employment drug testing for employees transferring from one executive agency to another without a lapse in service, and updated the list of positions that are classified as safety-sensitive or security-sensitive.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 1. Office of the Secretary

§101. Drug Free Workplace and Drug Testing

A. Introduction and Purpose

1. The employees of the Department of Revenue are among the state's most valuable resources, and the physical and mental well-being of our employees is necessary for them to properly carry out their responsibilities. Substance abuse causes serious adverse consequences to users, affecting their productivity, health and safety, dependents, and co-workers, as well as the general public.

2. The state of Louisiana and the Department of Revenue have a long-standing commitment to working toward a drug-free, alcohol-free workplace. In order to curb the use of illegal drugs by employees of the state of Louisiana, the Louisiana Legislature enacted laws that provide for the creation and implementation of drug testing programs for state employees. Further, the Governor of the State of Louisiana issued Executive Orders KBB 2005-08 and 2005-11 providing for the promulgation by executive agencies of written policies mandating drug testing of employees, appointees, prospective employees and prospective appointees, pursuant to R.S. 49:1001 et seq.

B. Applicability

1. This regulation applies to all Department of Revenue employees including appointees and all other persons having an employment relationship with this agency.

C. Definitions

Controlled Substances—a drug, chemical substance or immediate precursor in Schedules I through V of R.S. 40:964 or Section 202 of the Controlled Substances Act (21 U.S.C. 812).

Designer (Synthetic) Drugs—those chemical substances that are made in clandestine laboratories where the molecular structure of both legal and illegal drugs is altered to create a drug that is not explicitly banned by federal law.

Employee—unclassified, classified, and student employees, student interns, and any other person having an employment relationship with this agency, regardless of the appointment type (e.g., full time, part time, temporary, restricted, detailed, job appointment, etc.).

Illegal Drug—any drug that is not legally obtainable or that has not been legally obtained, to include prescribed drugs not legally obtained and prescribed drugs not being used for prescribed purposes or being used by one other than the person for whom prescribed. For purposes of this regulation, alcohol consumption at or above the initial testing levels and confirmatory testing levels as established in the contract between the state of Louisiana and the official provider of drug testing services will classify alcohol as an illegal drug.

Public Vehicle—any motor vehicle, water craft, air craft or rail vehicle owned or controlled by the state of Louisiana.

Random Testing—testing randomly performed on employees holding a safety-sensitive or security-sensitive position. The secretary shall periodically call for a sample of such employees, selected at random by a computer generated random selection process.

Reasonable Suspicion—belief based upon reliable, objective and articulable facts derived from direct observation of specific physical, behavioral, odorous presence, or performance indicators and being of sufficient import and quantity to lead a prudent person to suspect that an employee is in violation of this regulation.

Safety-Sensitive or Security-Sensitive Position—a position determined by the secretary to contain duties of such nature that the compelling state interest to keep the incumbent drug-free and alcohol-free outweighs the employee's privacy interests. Positions considered as *safety-sensitive* or *security-sensitive* are listed in §101.J. These positions were determined with consideration of statutory law, jurisprudence, and the practices of this agency. Examples of *safety-sensitive* and *security-sensitive positions* are as follows:

- a. positions with duties that are required or are authorized to carry a firearm;
- b. positions with duties that require operation or maintenance of any heavy equipment or machinery, or the supervision of such an employee;
- c. positions with duties that require the operation or maintenance of a public vehicle, or the supervision of such an employee.

Secretary—Secretary of the Department of Revenue.

Testing with Cause—testing performed on employees on the basis of reasonable suspicion, post accident, rehabilitation monitoring, or possession of illegal drugs or drug paraphernalia while in the workplace.

Under the Influence—for the purposes of this regulation, a drug, chemical substance, or the combination of a drug or chemical substance that affects an employee in any detectable manner. The symptoms or influence are not confined to that consistent with misbehavior, nor to obvious impairment of physical or mental ability, such as slurred speech, or difficulty in maintaining balance. A determination of influence can be established by a professional opinion or a scientifically valid test.

Workplace—any location on agency property including all property, offices, and facilities, including all vehicles and equipment, whether owned, leased, or otherwise used by the agency or by an employee on behalf of the agency in the conduct of its business in addition to any location from which an individual conducts agency business while such business is being conducted.

D. Drug-Free Workplace Policy

1. It shall be the policy of the Department of Revenue to maintain a drug-free, alcohol-free workplace and a workforce free of substance abuse.

2. Employees are prohibited from reporting to work or performing work with the presence in their bodies of illegal drugs, controlled substances, designer (synthetic) drugs, or alcohol at or above the initial testing levels and confirmatory testing levels as established in the contract between the state

of Louisiana and the official provider of drug testing services.

3. Employees are further prohibited from the illegal use, possession, dispensation, distribution, manufacture, or sale of controlled substances, designer (synthetic) drugs, illegal drugs, and alcohol at the work site and while on official state business, on duty or on call for duty.

E. Conditions Requiring Drug Tests. Drug and alcohol testing shall be required under the following conditions.

1. Reasonable Suspicion. Any employee shall be required to submit to a drug and alcohol test if there is reasonable suspicion, as defined in §101.C. *Reasonable Suspicion*, that the employee is using illegal drugs or is under the influence of alcohol while on duty.

2. Post Accident. Each employee involved in an accident that occurs during the course and scope of employment shall be required to submit to a drug and alcohol test if the accident:

a. involves circumstances leading to a reasonable suspicion of the employee's drug or alcohol use; or

b. results in a fatality.

3. Rehabilitation Monitoring. Any employee who is participating in a substance abuse after-treatment program or who has a rehabilitation agreement with the agency following an incident involving substance abuse shall be required to submit to periodic drug testing.

4. Pre-Employment. Each prospective employee shall be required to submit to drug screening at the time and place designated by the Director of the Human Resources following a job offer contingent upon a negative drug-testing result. A prospective employee who tests positive for the presence of drugs in the initial screening or who fails to submit to drug testing shall be eliminated from consideration for employment. Employees transferring to the department from other state agencies without a break in service are exempt from pre-employment testing.

5. Safety-Sensitive and Security-Sensitive Positions

a. Appointments and Promotions. Each employee who is offered a safety-sensitive or security-sensitive position as defined in §101.J shall be required to pass a drug test before being placed in such position, whether through appointment or promotion. All such testing shall, if applicable, occur during the selected employee's work schedule.

b. Random Testing. Every employee in a safety-sensitive or security-sensitive position shall be required to submit to drug testing as required by the secretary, who shall periodically call for a sample of such employees, selected at random by a computer-generated random selection process, and require them to report for testing. All such testing shall, if applicable, occur during the selected employee's work schedule.

6. Employees in Possession of Illegal Drugs. Any employee previously found in possession of suspected illegal drugs or drug paraphernalia in the workplace shall be required to submit to subsequent random drug tests.

F. Drug and Alcohol Testing Procedure

1. Drug testing pursuant to this regulation shall be conducted for the presence of any illegal drugs, including, cannabinoids (marijuana metabolites), cocaine metabolites, opiate metabolites, phencyclidine, and amphetamines in accordance with the provisions of R.S. 49:1001 et seq. The

Department of Revenue reserves the right to test its employees for the presence of alcohol, any other illegal drugs, or controlled substances when there is reasonable suspicion to do so. For purposes of this regulation, alcohol consumption at or above the initial testing levels and confirmatory testing levels as established in the contract between the state of Louisiana and the official provider of drug testing services will classify alcohol as an illegal drug.

2. The Director of Human Resources and the secretary shall be involved in any determination that one of the above-named conditions requiring drug and alcohol testing exists. All recommendations for drug testing must be approved by the secretary. Upon final determination by the responsible officials, the Director of the Human Resources shall notify the supervisor of the employee to be tested, and the supervisor shall immediately notify the employee where and when to report for the testing.

3. Testing services shall be performed by a provider chosen by the Office of State Purchasing, Division of Administration, pursuant to applicable bid laws. At a minimum, the testing service shall assure the following.

a. All specimen collections will be performed in accordance with applicable federal and state regulations and guidelines to ensure the integrity of the specimen and the privacy of the donor. The Director of Human Resources shall review and concur in advance with any decision by a collection site person to obtain a specimen under direct supervision. All direct observation shall be conducted by a person of the same-sex at the collection site.

b. Chain of custody forms must be provided to ensure the integrity of each urine specimen by tracking its handling and storage from point of collection to final disposition.

c. Testing shall be performed by a Substance Abuse Mental Services Health Administration (SAMSHA) certified laboratory.

d. The laboratory shall use a cut-off of 50 ng/ml for a positive finding in testing for cannabinoids.

e. The laboratory shall use a concentration cut-off of 0.08 or more for the initial positive finding in testing for alcohol.

f. All positives reported by the laboratory must be confirmed by gas chromatography/mass spectrometry.

4. All confirmed positive results of alcohol and drug testing shall be reported by the laboratory to a qualified medical review officer.

G. Confidentiality

1. All information, interviews, reports, statements, memoranda, or test results received through this drug testing program are confidential communications, pursuant to R.S. 49:1012, and may not be used or received in evidence, obtained in discovery, or disclosed in any public or private proceedings, except in an administrative or disciplinary proceeding or hearing, or civil litigation where drug use by the tested individual is relevant.

2. All records regarding this policy shall be maintained by the Director of Human Resources in a secured, confidential file.

H. Responsibilities

1. The secretary is responsible for the overall compliance with this regulation and shall submit to the Office of the Governor, through the Commissioner of

Administration, a report on this regulation and drug testing program, describing progress, the number of employees affected, the categories of testing being conducted, the associated costs for testing, and the effectiveness of the program by November 1 of each year.

2. The Director of the Human Resources is responsible for administering the drug and alcohol testing program; recommending to the secretary when drug testing is appropriate; receiving, acting on, and holding confidential all information received from the testing services provider and from the medical review officer; collecting appropriate information necessary to agency defense in the event of legal challenge; and providing the secretary with the data necessary to submit a detailed report to the Office of the Governor as described above.

3. All supervisory personnel are responsible for reporting to the Director of Human Resources any employee they suspect may be under the influence of any illegal drug, alcohol, or chemical substance. Supervisory personnel are also responsible for assuring that each employee under their supervision understands or is given the opportunity to understand and have questions answered about this regulation's contents.

I. Violation of the Regulation

1. All initial screening tests with positive results must be confirmed by a second test with the results reviewed by a medical review officer.

a. A breath test resulting in 0.08 or greater alcohol concentration level will be considered an initial positive result.

b. If a positive test result occurs, the confirmation test will be performed within 30 minutes, but not less than 15 minutes, of completion of the initial screening test.

c. Urine samples will be tested using the split sample method, with a confirmation test performed on the second half of the sample in the event that a positive test result occurs.

2. If the confirmation test produces positive results, the medical review officer will contact the employee/applicant prior to posting the results of the test as positive.

a. The employee/applicant will have the opportunity to verify the legitimacy of the result, i.e., producing a valid prescription in his/her name.

b. If the employee applicant is able to successfully verify the legitimacy of the positive results, the medical review officer will confirm the result as negative and report the results to the department.

c. If the employee is unable to successfully verify the legitimacy of the positive results, the employee shall be subject to disciplinary action up to and including possible termination of employment, as determined by the secretary.

3. Each violation and alleged violation of this regulation will be handled individually, taking into account all data, including the risk to self, fellow employees, and the general public.

4. Any employee whose drug test is confirmed positive may make a written request for access to records relating to his drug tests and any records relating to the results of any relevant certification, review, or suspension/revocation-of-certification proceedings within seven working days.

5. The secretary may, but shall not be required to, allow an employee whose drug test is certified positive by the medical review officer the opportunity to undergo rehabilitation without termination of employment, subject to the employee complying with the following conditions.

a. The employee must meet with an approved chemical abuse counselor for a substance abuse evaluation.

b. The employee must release the substance abuse evaluation before returning to work.

c. The employee shall be screened on a periodic basis for not less than 12 months nor more than 60 months.

d. The employee will be responsible for costs associated with follow-up testing, return to duty testing, counseling and any other recommended treatment.

6. Positive post accident or return to duty tests will result in the employee's immediate dismissal.

7. Any employee who refuses to submit to a urine test for the presence of illegal drugs or a breath test for the presence of alcohol shall be subject to the consequences of a positive test.

8. In the event that a current or prospective employee receives a confirmed positive test result, the employee may challenge the test results within 72 hours of actual notification.

a. The employee's challenge will not prevent the employee from being placed on suspension pending the investigation until the challenge is resolved.

b. The employee may submit a written explanation of the reason for the positive test result to the medical review officer.

c. Employees who are on legally prescribed and obtained medication for a documented illness, injury or ailment will be eligible for continued employment upon receiving clearance from the medical review officer.

9. In the event that a current or prospective employee remains unable to provide a sufficient urine specimen or amount of breath, the collector or Breath Alcohol Technician (BAT) must discontinue testing and notify the Director of Human Resources of their actions.

a. In both instances, whether the discrepancy is an insufficient urine specimen or amount of breath, the Director of Human Resources shall promptly inform the secretary.

b. The secretary shall then direct the employees to have a medical evaluation, at the expense of the Department of Revenue, by a licensed physician who possesses expertise in the medical issue surrounding the failure to provide a sufficient specimen.

c. This medical evaluation must be performed within five working days after the secretary is notified of the employee's inability to provide a sufficient specimen.

d. The physician shall provide the secretary with a report of his/her conclusions as to whether the employee's inability to provide a sufficient urine specimen or amount of breath is genuine.

e. If the physician determines that the employee's inability to provide a sufficient urine specimen or amount of breath is not genuine, the employees will be subject to the consequences of a positive test.

J. Safety-Sensitive or Security-Sensitive Positions to be Randomly Drug Tested

1. All candidates for the following positions are required to pass a drug test before being placed in the

position, whether through appointment or promotion and employees who occupy these positions are subject to random drug/alcohol testing.

- a. Alcohol Beverage Control Investigator Supervisor
- b. Alcohol Beverage Control Investigator
- c. Alcohol Beverage Control Manager
- d. Alcohol Beverage Control Staff Officer
- e. Alcohol Beverage Control Special Investigator
- f. Alcohol and Tobacco Control Agent 1-6
- g. Alcohol and Tobacco Control Commissioner
- h. Alcohol and Tobacco Control Deputy Commissioner
- i. Alcohol and Tobacco Control Financial Investigator 1-2
- j. Alcohol and Tobacco Control Special Investigator 1-2
- k. Alcohol and Tobacco Control Specialist
- l. Special Investigation Division—Assistant Director
- m. Special Investigations Division—Director
- n. Special Investigations Division—Revenue Agent

3

AUTHORITY NOTE: Promulgated in accordance with Executive Orders KBB 2005-08 and 2005-11 and R.S. 49:1015 et seq.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of the Secretary, LR 25:1523 (August 1999); amended LR 34:668 (April 2008).

Cynthia Bridges
Secretary

0804#055

RULE

Department of Revenue Policy Services Division

Payment of Taxes by Credit or Debit Cards; Other (LAC 61:III.1532)

Under the authority of R.S. 47:1511, R.S. 47:1519 and, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, has adopted LAC 61.III.1532, Payment of Taxes by Credit or Debit Cards; Other, to provide special provisions for payment of taxes by credit or debit cards.

The Rule identifies tax and nontax errors related to payments of taxes by credit or debit card and provides the applicable procedures for resolution of the errors. Specifically, this Rule provides that when a credit or debit card is accepted as a method of payment of taxes, matters concerning the payment are subject to the applicable error resolution procedures of the Truth in Lending Act, the Electronic Fund Transfer Act, or similar provisions of state law, only for the purpose of resolving errors relating to the credit card or debit card account, but not for resolving any errors, disputes, or adjustments relating to the underlying tax liability. Additionally, this Rule provides the limited purposes and activities for which information relating to payment, or processing of payment, of taxes by credit and debit card may be used or disclosed by card issuers, financial institutions, and other persons involved in the transaction.

Title 61

REVENUE AND TAXATION

Part III. Department of Revenue—Administrative Provisions and Miscellaneous

Chapter 15. Electronic Filing and Payments

§1532. Payment of Taxes by Credit or Debit Cards; Other

A. Authority to Receive Payment

1. Payments by Credit or Debit Card. All taxes due under any state law that the secretary is authorized to collect may be paid by credit card or debit card as authorized by this Section. Payment of taxes by credit or debit card is voluntary on the part of the taxpayer. Only credit cards or debit cards from a nationally recognized institution may be used for this purpose, and all such payments must be made in the manner and in accordance with the forms, instructions and procedures prescribed by the secretary. All references in this regulation to tax also include interest, penalties, fees, payments, additional amounts, and additions to tax.

2. Payments by Electronic Funds Transfer Other than Credit or Debit Card. Payment by electronic funds transfer other than payment by credit card or debit card is currently authorized by R.S. 47:1519. Specific provisions relating to payments by electronic funds transfer other than payment by credit or debit card are contained in R.S. 47:1519 and the regulation promulgated pursuant to R.S. 47:1519, LAC 61:I.4910 (Electronic Funds Transfer). Thus, this regulation only provides for payments of taxes by credit and debit card. Louisiana Revised Statute 47:1519 and LAC 61:I.4910 shall remain the authorities for payment by electronic funds transfer other than payment by credit card and debit card.

B. Definitions

Credit Card—any credit card as defined in Section 103(k) of the Truth in Lending Act (15 U.S.C. 1602(k)), including any credit card, charge card, or other credit device issued for the purpose of obtaining money, property, labor, or services on credit.

Debit Card—any accepted card or other means of access as defined in Section 903(1) of the Electronic Fund Transfer Act (15 U.S.C. 1693a(1)), including any debit card or similar device or means of access to an account issued for the purpose of initiating electronic fund transfers to obtain money, property, labor, or services.

Electronic Funds Transfer—any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated electronically so as to order, instruct, or authorize a financial institution to debit or credit an account and is accomplished by an automated clearinghouse debit or automated clearinghouse credit. The term *financial institution* includes a state or national bank, a state or federal savings and loan association, and a state or federal credit union. A credit or debit card issued by a financial institution is used to initiate an electronic funds transfer.

Payment—any amount paid to the Department of Revenue representing a tax, fee, interest, penalty, or other amount.

Secretary—the Secretary of the Department of Revenue or the secretary's representative.

Underlying Tax Liability—the total amount of tax owed by a taxpayer and due to the secretary.

C. **Payment Deemed Made.** A payment of tax by credit or debit card shall be deemed made when the issuer of the credit or debit card properly authorizes the transaction, provided that the payment is actually received by the secretary in the ordinary course of business and is not returned because of an error relating to the credit or debit card account as described in Subsection E of this Section.

D. **Payment Not Made.** No taxpayer making any payment of tax by credit or debit card to the secretary is relieved from liability for the underlying tax obligation except to the extent that the secretary receives final payment of the underlying tax obligation in cash or the equivalent. If final payment is not made by the credit or debit card issuer or other guarantor of payment in the debit or credit card transaction, the underlying tax obligation shall survive, and the secretary shall retain all special and alternative remedies or procedures for enforcement which would have applied if the debit or credit card transaction had not occurred and may proceed to enforce the collection of any taxes due. This continuing liability of the taxpayer is in addition to, and not in lieu of, any liability of the issuer of the credit or debit card or financial institution to the state of Louisiana. No person, by contract or otherwise, may modify the provisions of this Subsection.

E. **Resolution of Errors Relating to the Credit Card or Debit Card Account**

1. **Applicable Procedures.** In general, payments of taxes by credit or debit card shall be subject to the applicable error resolution procedures of Section 161 of the Truth in Lending Act (15 U.S.C. 1666), Section 908 of the Electronic Fund Transfer Act (15 U.S.C. 1693f), or any similar provisions of state law, for the purpose of resolving errors relating to the credit or debit card account, but not for the purpose of resolving any errors, disputes or adjustments relating to the underlying tax liability. Thus, nontax matters related to payment by credit or debit cards are to be resolved by persons ultimately liable for payment and financial intermediaries, without the involvement of the secretary.

2. **Matters Covered by Error Resolution Procedures.** The error resolution procedures of Paragraph E.1 of this Section apply to the following types of errors:

- a. an incorrect amount posted to the taxpayer's credit or debit card account as a result of a computational error, numerical transposition, or similar mistake;
- b. an amount posted to the wrong taxpayer's credit or debit card account;
- c. a transaction posted to the taxpayer's credit or debit card account without the taxpayer's authorization; and
- d. other similar types of nontax errors relating to the taxpayer's credit or debit card account that would be subject to resolution under Section 161 of the Truth in Lending Act (15 U.S.C. 1666), Section 908 of the Electronic Fund Transfer Act (15 U.S.C. 1693f), or similar provisions of state law.

3. **No Basis for Claim or Defense against Secretary or State.** An error described in this Subsection may be resolved only through the applicable error resolution procedures of Section 161 of the Truth in Lending Act (15 U.S.C. 1666), Section 908 of the Electronic Fund Transfer Act (15 U.S.C.

1693f), or similar provisions of state law, as set forth in Subsection F of this Section and shall not be a basis for any claim or defense in any administrative or court proceeding involving the secretary or the state of Louisiana.

F. **Return of Funds Pursuant to Error Resolution Procedures.** If a person is owed an amount because of the correction of an error under the error resolution procedures of Paragraph E.1 of this Section, the secretary may, in the secretary's sole discretion, return the amount to the person by arranging for a credit to that person's credit or debit card account with the issuer of the credit or debit card or any other financial institution or person that participated in the credit or debit card transaction in which the error occurred. Returns of funds through credit or debit card credits are only available to correct errors relating to the credit or debit card account, and not to refund overpayments of taxes.

G. **Tax Matters not Subject to Error Resolution Procedures.** The error resolution procedures of Paragraph E.1 of this Section do not apply to any error, question, dispute, or any other matter concerning the amount of tax owed by any person for any taxable period. The error resolution procedures do not apply to determine a taxpayer's entitlement to a refund of tax for any taxable period for any reason. The error resolution procedures cannot be used to refund an overpayment of taxes. All tax matters that have been delegated to the secretary and the Department of Revenue shall be resolved by the secretary, without the involvement of financial intermediaries, through the administrative and judicial procedures established pursuant to Title 47 of the Louisiana Revised Statutes of 1950, as amended, and regulations promulgated pursuant to the Administrative Procedure Act. Thus, credit card and debit card issuers, financial institutions, other intermediaries and processing mechanisms are excluded from the resolution of an error when the alleged error involves the underlying tax liability, as opposed to the credit or debit card account.

1. **Rights of Credit Card Customers.** Payments of taxes by credit or debit card are not subject to Section 170 of the Truth in Lending Act (15 U.S.C. 1666i) or to any similar provision of state law.

2. **Creditor.** The term *creditor* under Section 103(f) of the Truth in Lending Act (15 U.S.C. 1602(f)) does not include the secretary with respect to credit or debit card transactions in payment of any tax that the secretary is authorized to administer, enforce or collect.

H. **Service Fee for Using Debit or Credit Card.** At the time of payment, the service fee for the use of a credit or debit card shall be charged to the taxpayer and shall be collectible as part of the taxpayer's liability. The charge, however, shall not exceed the fee charged by the debit or credit card issuer, including any discount rate.

I. **Authority to Enter into Contracts.** The secretary may enter into contracts for the purpose of implementing a system to provide a convenient electronic method for receiving payments of taxes by credit or debit card.

J. **Use and Disclosure of Information Relating to Payment by Credit or Debit Card.** Any information or data obtained directly or indirectly by any person other than the taxpayer in connection with payment of taxes by a credit or

debit card is subject to the confidentiality restrictions of R.S. 47:1508, whether the information is received from the Department of Revenue or from any other person, including the taxpayer.

1. No person other than the taxpayer shall use or divulge the information except as follows.

a. Credit or debit card issuers, financial institutions, or other persons participating in the credit card or debit card transaction may use or disclose such information for the purpose and in direct furtherance of servicing cardholder accounts, including the resolution of errors in accordance with Subsection E of this Section. This authority includes the following:

i. processing the credit or debit card transaction, in all of its stages through and including the crediting of the amount charged on account of tax to the Department of Revenue;

ii. billing the taxpayer for the amount charged or debited with respect to payment of the tax liability;

iii. collecting the amount charged or debited with respect to payment of the tax liability;

iv. returning funds to the taxpayer in accordance with Subsection F of this Section;

v. sending receipts or confirmation of a transaction to the taxpayer, including secured electronic transmissions and facsimiles; and

vi. providing information necessary to make a payment to the secretary, as explicitly authorized by the taxpayer (e.g., name, address, Social Security number, taxpayer identification number).

b. Notwithstanding the provisions of Paragraph J.1 of this Subsection, use or disclosure of information relating to credit and debit card transactions for purposes related to any of the following is not authorized:

i. the sale, or transfer for consideration, of confidential information separate from a sale or transfer for consideration of the underlying account or receivable;

ii. marketing for any purpose, such as marketing tax-related products or services or marketing any product or service that targets persons who have used a credit or debit card to pay taxes; and

iii. furnishing the information to any credit reporting agency or credit bureau, except with respect to the aggregate amount of a cardholder's account, with the amount attributable to payment of taxes not separately identified.

2. Any person who uses or discloses the information contrary to the provisions of R.S. 47:1508 and other than as authorized by this Subsection shall be guilty of a misdemeanor and, upon conviction, can be fined up to \$10,000 or be imprisoned for up to two years, or both.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1519 and R.S. 47:1577.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 34:671 (April 2008).

Cynthia Bridges
Secretary

0804#053

RULE

Department of Revenue Tax Commission

Ad Valorem Taxation

(LAC 61:V.101, 103, 109, 113, 118, 121, 211, 213, 303, 703, 907, 1103, 1307, 1503, 2501, 2503, 2711, 3101, 3103, 3105, 3106, 3107, 3503 and 3515)

In accordance with provisions of the Administrative Procedure Act (R.S. 49:950 et seq.), and in compliance with statutory law administered by this agency as set forth in R.S. 47:1837, the Tax Commission has adopted, amended and/or repealed Sections of the Louisiana Tax Commission Real/Personal Property rules and regulations for use in the 2008 (2009 Orleans Parish) tax year.

Title 61

REVENUE AND TAXATION

Part V. Ad Valorem Taxation

Chapter 1. Constitutional and Statutory Guides to Property Taxation

§101. Constitutional Principles for Property Taxation

Editor's Note: Section 3503 has been moved to this Section, specifically Subsection F - F.3.h.

A. - E. ...

F. Homestead Exemptions

1. General Provisions

a. The Louisiana Constitution permits no other property tax exemptions except those provided in the Constitution.

b. The Constitution exempts to the extent of \$7,500 of assessed value:

i. the bona fide homestead, consisting of a tract of land or two or more tracts of land, even if the land is classified and assessed at use value, with a residence on one tract and a field, with or without timber on it, pasture, or garden on the other tract or tracts, not exceeding one hundred sixty acres, buildings and appurtenances, whether rural or urban, owned and occupied by any person or persons owning the property in indivision;

ii. the same homestead exemption shall also fully apply to the primary residence including a mobile home which serves as a bona fide home and which is owned and occupied by any person or persons owning the property in indivision, regardless of whether the homeowner owns the land upon which the home or mobile home is sited; however, this homestead exemption shall not apply to the land upon which such primary residence is sited if the homeowner does not own the land;

iii. the homestead exemption shall extend and apply fully to the surviving spouse or a former spouse when the homestead is occupied by the surviving spouse or a former spouse and title to it is in the name of:

(a) the surviving spouse as owner of any interest or either or both of the former spouses;

(b) the surviving spouse as usufructuary; or

(c) a testamentary trust established for the benefit of the surviving spouse and the descendants of the

deceased spouse or surviving spouse, but not to more than one homestead owned by either the husband or wife, or both;

iv. the homestead exemption shall extend to property owned by a trust when the principal beneficiary or beneficiaries of the trust are the settlor or settlors of the trust and were the immediate prior owners of the homestead, and the homestead is occupied as such by a principal beneficiary. The provisions of this Subparagraph shall apply only to property which qualified for the homestead exemption immediately prior to transfer, conveyance, donation in trust, or which would have qualified for the homestead exemption if such property were not owned in trust;

v. the homestead exemption shall extend to property where the usufruct of the property has been granted to no more than two usufructaries who were the immediate prior owners of the homestead and the homestead is occupied as such by a usufructary. The provisions of this Subparagraph shall apply only to property which qualified for the homestead exemption immediately prior to the granting of such usufruct, or which would have qualified for the homestead exemption if such usufruct had not been granted.

c. The homestead exemption shall extend only to a natural person or persons and to a trust created by a natural person or persons, in which the beneficiaries of the trust are a natural person or persons provided that the provisions of this Paragraph are otherwise satisfied.

d. Except as otherwise provided for in this Paragraph, the homestead exemption shall apply to property owned in indivision, but shall be limited to the pro rata ownership interest of that person or persons occupying the homestead. For example, a person owning a 50 percent interest in property would be entitled to a homestead exemption of \$3,750 of the property's assessed value provided such person occupies the home.

e. No homestead exemption shall be granted on bond for deed property. However, any homestead exemption granted prior to June 20, 2003 on any property occupied on December 7, 2004, by a buyer under a bond for deed contract shall remain valid as long as the circumstances giving rise to the exemption at the time the exemption was granted remains applicable.

f. In no event shall more than one homestead exemption extend or apply to any person in this state.

g. This exemption shall not extend to municipal taxes. However, the exemptions shall apply:

i. in Orleans Parish, to state, general city, school, levee, and levee district taxes; and

ii. to any municipal taxes levied for school purposes.

h. Homestead exemptions are allowable in any year in which the owner occupied the home prior to December 31 of that year.

i. Property owned by a partnership or corporation is not entitled to homestead exemption (Corporation: A.G.'s Opinion May 7, 1969, A.G.'s Opinion 1940-42, p. 4119; Partnership: A.G.'s Opinion 1936-38, p. 1044).

j. Purchase arrangement which does not transfer title does not give occupant entitlement to homestead exemption (Lease/purchase: A.G.'s Opinion 1940-42, p. 4110, and p. 4115; A.G.'s Opinion 1942-44, p. 1679; Bond for Deed: A.G.'s Opinion No. 87-345, May 12, 1987).

k. Any homestead receiving the homestead exemption that is damaged or destroyed during a disaster or emergency declared by the governor whose owner is unable to occupy the homestead on or before December 31 of a calendar year due to such damage or destruction shall be entitled to claim and keep the exemption by filing an annual affidavit of intent to return and reoccupy the homestead within five years from December 31 of the year following the disaster with the assessor within the parish or district where such homestead is situated prior to December 31 of the year in which the exemption is claimed. In no event shall more than one homestead exemption extend or apply to any person in this state.

2. The purpose of this Section is to partially implement the provisions of Article VII, Section 20(B) of the Constitution of Louisiana relative to the providing of tax relief to residential lessees in order to provide equitable tax relief similar to that granted to homeowners through homestead exemptions.

a. A residential lessee is defined as a person who owns and occupies a residence, including mobile homes, but does not own the land upon which the residence is situated.

b. A residential lessee shall be entitled to a credit against any ad valorem tax imposed relative to the residence property, in an amount equal to the amount of tax applicable on property with an assessed valuation of \$7,500 or the actual amount of tax, whichever is less, provided the residential lessee is not otherwise entitled to the homestead exemption (R.S. 47:1710).

3. Residence

a. Only one homestead exemption can be claimed. (A.G.'s Opinion 1942-44, p. 1660, A.G.'s Opinion 1942-44, p. 1678, A.G.'s Opinion 1940-42, p. 4117).

b. If other requirements are met, a person may be entitled to the exemption, even if the taxpayer is a citizen of another state or country (A.G.'s Opinion 1948-50, p. 729).

c. Taxpayer does not lose the exemption by temporary absence (A.G.'s Opinion 1948-50, p. 729).

d. State employee living in another parish does not lose his entitlement if he returns to occupy the property regularly (A.G.'s Opinion 1936-38, p. 1055), and does not rent the property to another (A.G.'s Opinion 1936-38, p. 1054).

e. Army officer required to live away from home who allows relatives to occupy the property rent free does not lose his homestead exemption (A.G.'s Opinion 1940-42, p. 4088).

f. Taxpayer who establishes a second residency for political purposes does not lose the homestead exemption on his first residence (A.G.'s Opinion 86-364, Oct. 17, 1986).

g. If part of a property is used as income producing property, the part occupied by the owner as a residence is exempt, the income producing part is not (portion of home used as a place of business is not exempt, A.G.'s Opinion 1940-42, p. 4129; A.G.'s Opinion 1934-36, p. 1144; rented half of double house not exempt, A.G.'s Opinion 1934-36, p. 1138).

h. When there is more than one tract with a residence on one and a field, pasture or garden on the other, tract must actually be used as a field, pasture or garden to be eligible for exemption, taxpayer must personally use the

field, pasture or garden, and, if the tract is let out to another, it is not exempt (A.G.'s Opinion 1940-42, p. 1660).

G. Special Assessment Level

1. The assessment of residential property receiving the homestead exemption which is owned and occupied by any of the following and who meet all of the other requirements of this Section shall not be increased above the total assessment of that property for the first year that the owner qualifies for and receives the special assessment level provided that such person or persons remain qualified for and receive the special assessment level:

- a. people who are 65 years of age or older;
- b. people who have a service-connected disability rating of 50 percent or more by the United States Department of Veterans Affairs;
- c. members of the armed forces of the United States or the Louisiana National Guard who owned and last occupied such property who are killed in action, or who are missing in action or are a prisoner of war for a period exceeding 90 days; or
- d. any person or persons permanently totally disabled as determined by a final non-appealable judgment of a court or as certified by a state or federal administrative agency charged with the responsibility for making determinations regarding disability.

2. Any person or persons shall be prohibited from receiving the special assessment as provided in this Section if such person's or persons' adjusted gross income, as reported in the federal tax return for the year prior to the application for the special assessment, exceeds \$62,180 for tax year 2008 (2009 Orleans Parish). For persons applying for the special assessment whose filing status is married filing separately, the adjusted gross income for purposes of this Section shall be determined by combining the adjusted gross income on both federal tax returns.

3. An eligible owner shall apply for the special assessment level by filing a signed application establishing that the owner qualifies for the special assessment level with the assessor of the parish or, in the parish of Orleans, the assessor of the district where the property is located.

4. The special assessment level shall remain on the property as long as:

- a. that owner, or that owner's surviving spouse who is 55 years of age or older or who has minor children, remains the owner of the property, and:
 - i. the owner who has a service-connected disability of 50 percent or more, or that owner's surviving spouse who is 45 years of age or older or who has minor children, remains the owner of the property;
 - ii. the spouse of the owner who is killed in action remains the owner of the property;
 - iii. the first day of the tax year following the tax year in which an owner who was missing in action or was a prisoner of war for a period exceeding 90 days is no longer missing in action or a prisoner of war; and
 - iv. even if the ownership interest of any surviving spouse or spouse of an owner who is missing in action as provided for in this Subparagraph is an interest in usufruct;
 - b. the value of the property does not increase more than 25 percent because of construction or reconstruction.
5. A new or subsequent owner of the property may claim a special assessment level when eligible under this

Section. The new owner is not necessarily entitled to the same special assessment level on the property as when that property was owned by the previous owner.

6. The special assessment level on property that is sold shall automatically expire on the last day of December in the year prior to the year that the property is sold. The property shall be immediately revalued at fair market value by the assessor and shall be assessed by the assessor on the assessment rolls in the year it was sold.

7. A usufructuary is entitled to the benefit of the special assessment level attained by the prior owner/occupant, provided that either:

- a. the usufructuary is the owner's surviving spouse, occupying the house, who is 55 years of age or older or who has minor children, and the value of the property does not increase more than 25 percent because of construction or reconstruction; or
- b. the usufructuary is the immediate prior owner of the homestead and the homestead is occupied by such usufructuary. A usufructuary is entitled to the special assessment level freeze if and when he or she qualifies independently.

8. The special assessment level, like the homestead exemption, should be applied to the extent of a homeowner's undivided interest in the occupied property.

9. Any owner entitled to the special assessment level set forth in this Paragraph who is unable to occupy the homestead on or before December 31 of a future calendar year due to damage or destruction of the homestead caused by a disaster or emergency declared by the governor shall be entitled to keep the special assessment level of the homestead prior to its damage or destruction on the repaired or rebuilt homestead provided the repaired or rebuilt homestead is reoccupied by the owner within five years from December 31 of the year following the disaster. The assessed value of the land and buildings on which the homestead was located prior to its damage shall not be increased above its assessed value immediately prior to the damage or destruction described in this Subparagraph. If the property owner receives a homestead exemption on another homestead during the same five-year period, the damaged or destroyed property shall not be entitled to keep the special assessment level, and the land and buildings shall be assessed in that year at the percentage of fair market value set forth in this constitution. In addition, the owner must also maintain the homestead exemption set forth in Article VII, Section 20(A)(10) to qualify for the special assessment level in this Subparagraph.

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Constitution of 1974, Article VII, §18.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 15:1097 (December 1989), amended by the Department of Revenue, Tax Commission, LR 24:477 (March 1998), LR 26:506 (March 2000), LR 31:700 (March 2005), LR 32:425 (March 2006), LR 33:489 (March 2007), LR 33:502 (March 2007), LR 34:673 (April 2008).

§103. Exempt Property

A. In addition to the homestead exemption provided for in Section 20 of Article VII of the constitution, the following property and no other shall be exempt from ad valorem taxation:

1. public lands; other public property used for public purposes;

2. property of a nonprofit corporation or association organized and operated exclusively for religious, dedicated places of burial, charitable, health, welfare, fraternal, or educational purposes, no part of the net earnings of which inure to the benefit of any private shareholder or member and which is declared to be exempt from federal or state income tax;

a. medical equipment leased for a term exceeding five years to such a nonprofit corporation or association which owns or operates a small, rural hospital and which uses the equipment solely for health care purposes at the hospital, provided that the property shall be exempt only during the term of the lease to such corporation or association, and further provided that "small, rural hospital" shall mean a hospital which meets all of the following criteria:

i. it has less than 50 Medicare-licensed acute care beds; and

ii. it is located in a municipality with a population of less than 10,000 which has been classified as an area with a shortage of health manpower by the United States Health Service;

3. property of a bona fide labor organization representing its members or affiliates in collective bargaining efforts; and

4.a. property of an organization such as a lodge or club organized for charitable and fraternal purposes and practicing the same, and property of a nonprofit corporation devoted to promoting trade, travel, and commerce, and also property of a trade, business, industry or professional society or association, if that property is owned by a nonprofit corporation or association. The exemption should be allowed only if it is determined that the requesting organization has met all of the constitutional requirements for exemption. Assessors may request the following information from the taxpayer in order to make a determination of exemption:

i. completed LTC Form TC-80, Application for Exemption—Real Estate Taxes;

ii. certified copy of the articles of incorporation of the organization;

iii. certified copy of the by-laws of the organization;

iv. copy of the Internal Revenue Service letter granting the organization tax-exempt status;

v. audited financial statements for the preceding three years, along with an affidavit from the organization's CPA and/or treasurer that the financial statements are true and correct;

vi. federal tax returns filed for the preceding three years; and

vii. affidavit from the president or other duly appointed officer stating:

(a). the price paid for each share of stock issued by the organization for the past five years;

(b). whether or not over the previous five years any dividends have been paid or interest accrued on the value of the stock of the organization; and

(c). whether or not any part of the net earnings of the organization inure to the benefit of any member of the organization.

NOTE: See Louisiana Constitution of 1974, Article VII, Section 21.B, for specific conditions of authorization.

b. None of the property listed in §103.A.2, 3, and 4 shall be exempt if owned, operated, leased or used for commercial purposes unrelated to the exempt purposes of the corporation or association;

5. cash on hand or deposit;

6. stocks and bonds, except bank stocks, the tax on which shall be paid by the banking institution;

7. obligations secured by mortgage on property located in Louisiana and the notes or other evidence thereof;

8. loans by life insurance companies to policyholders, if secured solely by their policies;

9. the legal reserve of domestic life insurance companies;

10. loans by a homestead or building and loan association to its members, if secured solely by stock of the association;

11. debts due for merchandise or other articles of commerce or for services rendered;

12. obligations of the state or its political subdivisions;

13. personal property used in the home or on loan in a public place;

14. irrevocably dedicated places of burial held by individuals for purposes of burial of themselves or members of their families;

15. agricultural products while owned by the producer, agricultural machinery and other implements used exclusively for agricultural purposes (including crop dusting aircraft), animals on the farm, and property belonging to an agricultural fair association (also see R.S. 47:1707);

16. property used for cultural, Mardi Gras carnival, or civic activities and not operated for profit to the owners;

17. rights-of-way granted to the State Department of Highways (DOTD);

18. boats using gasoline as motor fuel;

19. commercial vessels used for gathering seafood for human consumption;

20. ships and oceangoing tugs, towboats and barges engaged in international trade and domiciled in Louisiana ports:

a. however, this exemption shall not apply to harbor, wharf, shed, and other port dues or to any vessel operated in the coastal trade of the states of the United States;

21. materials, boiler fuels, and energy sources used by public utilities to fuel the generation of electricity;

22. all incorporeal movables of any kind or nature whatsoever, except public service properties, bank stocks, and credit assessments on premiums written in Louisiana by insurance companies and loan and finance companies. (See Louisiana Civil Code of 1870, as amended, and R.S. 47:1709).

B. Also exempt are raw materials, goods, commodities, articles and personal property imported into this state from outside the states of the United States or, held in storage while in transit through this state which are moving in interstate commerce.

NOTE: See Louisiana Constitution, Article VII, Section 21.D; and, R.S. 47:1951.1, R.S. 47:1951.2 and R.S. 47:1951.3 for specific conditions of authorization.

1. Property described in §103.B, whether or not entitled to exemption, shall be reported to the proper taxing authorities on the forms required by law.

C. Motor vehicles used on the public highways of this state, from state, parish, municipal, and special ad valorem taxes.

D. New manufacturing establishments and additions to existing manufacturing establishments to be granted tax exemptions by the State Board of Commerce and Industry, with the approval of the governor, as authorized by Article VII, Section 21.F of the Louisiana Constitution of 1974.

E. Coal or lignite stockpiled in Louisiana for use in Louisiana for industrial or manufacturing purposes or for boiler fuel, gasification, feedstock, or process purposes.

F. Value of enhancements to certain structures located in downtown, historic, or economic development districts to be granted a limited exemption by the State Board of Commerce and Industry, if approved by the governor and the local governing authority, as authorized by Article VII, Section 21.H of the Louisiana Constitution of 1974.

G. Goods held in inventory by distribution centers, to be granted tax exemptions by the parish economic development or governing authority, with the approval of each affected tax recipient body in the parish, as authorized by Article VII, Section 21.I of the Louisiana Constitution of 1974.

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Constitution of 1974, Article VII, §21.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 12:36 (January 1986), LR 15:1097 (December 1989), LR 17:1213 (December 1991), amended by the Department of Revenue, Tax Commission, LR 24:478 (March 1998), LR 32:426 (March 2006), LR 34:675 (April 2008).

§109. Fair Market Value Defined

Fair Market Value—the price for property which would be agreed upon between a willing and informed buyer and a willing and informed seller under usual and ordinary circumstances; it shall be the highest price estimated in terms of money which property will bring if exposed for sale on the open market with reasonable time allowed to find a purchaser who is buying with knowledge of all the uses and purposes to which the property is best adapted and for which it can be legally used.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:2321.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 15:1097 (December 1989), amended by the Department of Revenue, Tax Commission, LR 34:677 (April 2008).

§113. Assessments: General Information

A. Assessment Date. Assessments shall be made on the basis of the condition of things existing on the first day of January of each year (R.S. 47:1952). For purposes of determining exemptions in Orleans Parish, the status of property as of August 1 of each year shall be determinative.

B. Domicile. All property subject to taxation, including merchandise or stock in trade, shall be placed upon the assessment lists in the respective parishes or districts where situated. Personal property acquires a situs at the domicile of the holder or owner, but tangible personal property used continuously in any other taxing district may acquire a tax situs there.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1952.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:921 (November 1984), LR 15:1097 (December 1989), LR 16:1063 (December 1990), amended by the Department of Revenue, Tax Commission, LR 34:677 (April 2008).

§118. Data Collection by the Assessor

A. The assessor may use self-reporting forms, as approved and adopted by the Louisiana Tax Commission or its successors, to gather data necessary to determine fair market value. A self-reporting form shall be returned to the assessor by the first day of April, or 45 days after receipt, whichever is later (R.S. 47:2324).

B. By failing to file a report when it is due, a property owner loses the right to appeal the appraisal by the assessor (R.S. 47:2329). If the failure to file is intentional, a penalty of 10 percent of the tax due shall be imposed (R.S. 47:2330(A)). If a taxpayer files a false report with the intent to defraud, a penalty of 10 percent of the tax due shall be imposed (R.S. 47:2330(A)).

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:2324, R.S. 47:2329 and R.S. 47:2330.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 15:1097 (December 1989), amended LR 16:1063 (December 1990), amended by the Department of Revenue, Tax Commission, LR 34:677 (April 2008).

§121. Reappraisal

A. Real property, as defined in R.S. 47:2322, shall be reappraised and reassessed at least every four years.

B. Personal property, as defined in R.S. 47:2322, shall be reappraised and reassessed every year.

C. Incorporeal real or immovable property, as defined in R.S. 47:2322 and R.S. 47:1702, shall be reappraised and reassessed at least every four years.

D. Taxable intangible public service properties, bank stocks, and credit assessments on premiums written in Louisiana by insurance companies and loan and finance companies, per R.S. 47:1709 or incorporeal personal or movable property, as defined in R.S. 47:1702, shall be reappraised and reassessed every year.

E. Public service property, as defined in R.S. 47:1851, shall be reassessed every year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:2331.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:921 (November 1984), LR 15:1097 (December 1989), LR 16:1063 (December 1990), amended by the Department of Revenue, Tax Commission, LR 34:677 (April 2008).

Chapter 2. Policies and Procedures for Assessment and Change Order Practices

§211. Industrial Exemption Properties

A. All property of manufacturing establishments with contracts for the exemption from ad valorem taxes with the State Board of Commerce and Industry or its successor, with the approval of the governor and administered by the Department of Economic Development (DED), shall be listed on the parish exempt rolls, until such time as the exempted contract has expired or is terminated.

B. Assessors' offices shall review all Industrial Exemption applications and DED contracts issued to determine proper exempt status for ad valorem taxation purposes.

1. If an assessor determines that any portion of an Industrial Exemption is not eligible for ad valorem tax

exemption, pursuant to Article VII, Section 21(F) of the Louisiana Constitution of 1974 and rules of the Industrial Tax Exemption Program, the assessor shall informally address concerns to the DED Manager of the Industrial Tax Exemption Program. If informal communication does not satisfactorily answer the assessor's concerns, formal notice shall immediately be submitted to DED, with written ineligibility reasons given.

2. All contract status reports submitted to the assessors' offices by DED and the taxpayer's annual LAT 5-A reports shall be reviewed for accuracy. Any inaccuracies noted shall be reported, in writing, to DED immediately upon discovery.

3. Assessors' offices shall review and confirm contract expiration dates and immediately notify DED, in writing, of any disparity identified.

4. If any exempted manufacturing business is determined to have ceased its operations (business closed) during a contracted exemption period, the assessors' office should provide notice to DED of such cessation.

5. Assessors are urged to obtain rules for the Industrial Tax Exemption Program available at www.lded.state.la.us/come-to-louisiana/business-resources/state-business-incentives/industrial-tax-exemption-program.aspx or by contacting DED's Business Incentives Division.

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Constitution of 1974, Article VII, Section 21(F).

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Commission, LR 31:702 (March 2005), amended LR 32:427 (March 2006), LR 34:677 (April 2008).

§213. Assessment Policies and Procedures

A. All property within the state of Louisiana shall be assessed at Fair Market Value or Use Value, as the law provides, and either placed on the regular tax rolls, exempt rolls, or adjudicated tax rolls.

B. - F. ...

AUTHORITY NOTE: Promulgated in accordance with Louisiana Constitution of 1974, Article VII, Section 18, R.S. 47:1703, R.S. 47:1703.1, R.S. 47:1703.C., R.S. 47:1837, R.S. 47:1951, R.S. 47:1952, R.S. 47:1953, R.S. 47:1955, R.S. 47:1956, R.S. 47:1957, R.S. 47:1959, R.S. 47:1961, R.S. 47:1971, R.S. 47:1972, R.S. 47:2306, R.S. 47:2323, R.S. 47:2324, R.S. 47:2325, R.S. 47:2329, R.S. 47:2330 and R.S. 47:2331.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Commission, LR 31:703 (March 2005), LR 34:678 (April 2008).

Chapter 3. Real and Personal Property

§303. Real Property

A. - B.2. ...

C. The Louisiana Tax Commission has ordered all property to be reappraised for the 2008 tax year in all parishes. All property is to be valued as of January 1, 2007.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 7:44 (February 1981), amended by the Department of Revenue and Taxation, Tax Commission, LR 9:69 (February 1983), LR 12:36 (January 1986), LR 13:764 (December 1987), LR 16:1063 (December 1990), LR 17:611 (June 1991), LR 21:186 (February 1995), amended by the Department of Revenue, Tax Commission, LR 25:312 (February 1999), LR 26:506 (March 2000), LR 29:367 (March 2003), LR 30:487 (March 2004), LR 34:678 (April 2008).

Chapter 7. Watercraft
§703. Tables—Watercraft

A. Floating Equipment—Motor Vessels

Table 703.A Floating Equipment—Motor Vessels				
Cost Index (Average)		Average Economic Life 12 Years		
Year	Index	Effective Age	Percent Good	Composite Multiplier
2007	0.986	1	94	.93
2006	1.040	2	87	.90
2005	1.088	3	80	.87
2004	1.170	4	73	.85
2003	1.210	5	66	.80
2002	1.231	6	58	.71
2001	1.238	7	50	.62
2000	1.249	8	43	.54
1999	1.271	9	36	.46
1998	1.275	10	29	.37
1997	1.286	11	24	.31
1996	1.307	12	22	.29
1995	1.327	13	20	.27

B. Floating Equipment—Barges (Non-Motorized)

Table 703.B Floating Equipment—Barges (Non-Motorized)				
Cost Index Average		Average Economic Life 20 Years		
Year	Index	Effective Age	Percent Good	Composite Multiplier
2007	0.986	1	97	.96
2006	1.040	2	93	.97
2005	1.088	3	90	.98
2004	1.170	4	86	1.01
2003	1.210	5	82	.99
2002	1.231	6	78	.96
2001	1.238	7	74	.92
2000	1.249	8	70	.87
1999	1.271	9	65	.83
1998	1.275	10	60	.77
1997	1.286	11	55	.71
1996	1.307	12	50	.65
1995	1.327	13	45	.60
1994	1.374	14	40	.55
1993	1.413	15	35	.49
1992	1.441	16	31	.45
1991	1.458	17	27	.39
1990	1.487	18	24	.36
1989	1.527	19	22	.34
1988	1.609	20	21	.34
1987	1.678	21	20	.34

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:924 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:204 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:479 (March 1998), LR 25:312 (February 1999), LR 26:506 (March 2000), LR 27:425 (March 2001), LR 28:518 (March 2002), LR 29:368 (March 2003), LR 30:487 (March 2004), LR 31:715 (March 2005), LR 32:430 (March 2006), LR 33:490 (March 2007), LR 34:678 (April 2008).

Chapter 9. Oil and Gas Properties

§907. Tables—Oil and Gas

A. ...

Instructions for Use of Tables 907.A-1, 907.A-2 and 907.A-3 and

Procedure for Arriving at Assessed Value

1. Determine if well is located in Region 1 by reference to Table 907.B-1. See note for Region 2 or Region 3 (offshore state waters) wells.
2. Multiply depth of well by appropriate 15 percent of Cost-New amount as indicated in Table 907.A-1, 907.A-2 or 907.A-3.
3. Multiply the appropriate percent good factor based on age of the well as found in Table 907.B-2.
4. Use Oil cost-new to assess all active service wells for region where located.
5. See explanations in Section 901.E regarding the assessment of multiple completion wells.
6. For wells recompleted, use new perforation depth to determine fair market value.

1. Oil, Gas and Associated Wells; Region 1—North Louisiana

Producing Depths	Cost—New By Depth, Per Foot		15% of Cost—New By Depth, Per Foot	
	\$ Oil	\$ Gas	\$ Oil	\$ Gas
	0-1,249 ft.	28.95	101.28	4.34
1,250-2,499 ft.	26.12	74.48	3.92	11.17
2,500-3,749 ft.	20.53	49.32	3.08	7.40
3,750-4,999 ft.	28.39	49.15	4.26	7.37
5,000-7,499 ft.	33.40	47.97	5.01	7.20
7,500-9,999 ft.	73.22	64.66	10.98	9.70
10,000-12,499 ft.	213.52	78.44	32.03	11.77
12,500-14,999 ft.	N/A	118.44	N/A	17.77
15,000-Deeper ft.	N/A	135.05	N/A	20.26

2. Oil, Gas and Associated Wells; Region 2—South Louisiana

Producing Depths	Cost—New By Depth, Per Foot		15% of Cost—New By Depth, Per Foot	
	\$ Oil	\$ Gas	\$ Oil	\$ Gas
	0-1,249 ft.	222.50	100.62	33.38
1,250-2,499 ft.	76.83	167.24	11.52	25.09
2,500-3,749 ft.	75.02	133.34	11.25	20.00
3,750-4,999 ft.	66.14	106.67	9.92	16.00
5,000-7,499 ft.	90.35	121.16	13.55	18.17
7,500-9,999 ft.	123.26	126.85	18.49	19.03
10,000-12,499 ft.	168.08	165.82	25.21	24.87
12,500-14,999 ft.	220.48	214.53	33.07	32.18
15,000-17,499 ft.	357.13	287.22	53.57	43.08
17,500-19,999 ft.	436.05	406.84	65.41	61.03
20,000-Deeper ft.	232.84	610.80	34.93	91.62

3. Oil, Gas and Associated Wells; Region 3—Offshore State Waters

Producing Depths	Cost—New By Depth, Per Foot		15% Of Cost—New By Depth, Per Foot	
	\$ Oil	\$ Gas	\$ Oil	\$ Gas
	0 -1,249 ft.	N/A	N/A	N/A
1,250 -2,499 ft.	1,115.34	814.97	167.30	122.25
2,500 -3,749 ft.	573.52	626.33	86.03	93.95

Producing Depths	Cost—New By Depth, Per Foot		15% Of Cost—New By Depth, Per Foot	
	\$ Oil	\$ Gas	\$ Oil	\$ Gas
	3,750 -4,999 ft.	818.64	574.32	122.80
5,000 -7,499 ft.	407.39	531.94	61.11	79.79
7,500 -9,999 ft.	516.50	503.37	77.48	75.51
10,000 -12,499 ft.	584.72	510.25	87.71	76.54
12,500 -14,999 ft.	508.54	496.56	76.28	74.48
15,000 -17,499 ft.	350.52	515.24	52.58	77.29
17,500 - 19,999 ft.	N/A	492.58	N/A	73.89
20,000 - Deeper ft.	N/A	774.29	N/A	116.14

B. The determination of whether a well is a Region 2 or Region 3 well is ascertained from its onshore/offshore status as designated on the Permit to Drill or Amended Permit to Drill form (Location of Wells Section), located at the Department of Natural Resources as of January 1 of each tax year. Each assessor is required to confirm the onshore/offshore status of wells located within their parish by referring to the Permit to Drill or Amended Permit to Drill form on file at the Department of Natural Resources. The listing of each well and their onshore/offshore status will also be posted on the Louisiana Tax Commission website on or before January 15 of each respective tax year.

1. Parishes Considered to be Located in Region I

Bienville	DeSoto	Madison	Tensas
Bossier	East Carroll	Morehouse	Union
Caddo	Franklin	Natchitoches	Webster
Caldwell	Grant	Ouachita	West Carroll
Catahoula	Jackson	Red River	Winn
Claiborne	LaSalle	Richland	
Concordia	Lincoln	Sabine	

NOTE: All wells in parishes not listed above are located in Region 2 or Region 3.

2. Serial Number to Percent Good Conversion Chart

Year	Beginning Serial Number	Ending Serial Number	33 Year Life Percent Good
2007	234780	Higher	96
2006	232639	234779	92
2005	230643	232638	88
2004	229010	230642	84
2003	227742	229009	80
2002	226717	227741	76
2001	225352	226716	72
2000	223899	225351	68
1999	222882	223898	64
1998	221596	222881	60
1997	220034	221595	56
1996	218653	220033	52
1995	217588	218652	48
1994	216475	217587	44
1993	215326	216474	40
1992	214190	215325	36
1991	212881	214189	32
1990	211174	212880	28
1989	209484	211173	24
1988	Lower	209483	20*
VAR.	900000	Higher	50

*Reflects residual or floor rate.

NOTE: For any serial number categories not listed above, use year well completed to determine appropriate percent good. If spud date is later than year indicated by serial number; or, if serial number is unknown, use spud date to determine appropriate percent good.

B.3. - C.6. ...

Table 907.C.1 Surface Equipment	
Property Description	\$ Cost New
Actuators—(See Metering Equipment)	
Automatic Control Equipment—(See Safety Systems)	
Automatic Tank Switch Unit—(See Metering Equipment)	
Barges - Concrete—(Assessed on an individual basis)	
Barges - Storage—(Assessed on an individual basis)	
Barges - Utility—(Assessed on an individual basis)	
Barges - Work—(Assessed on an individual basis)	
Communication Equipment—(See Telecommunications)	
Dampeners—(See Metering Equipment - "Recorders")	
DESORBERS—(No metering equipment included):	
125#	94,050
300#	103,700
500#	118,000
Destroilets—(See Metering Equipment - "Regulators")	
Desurgers—(See Metering Equipment - "Regulators")	
Desilters—(See Metering Equipment - "Regulators")	
Diatrollers—(See Metering Equipment - "Regulators")	
Docks, Platforms, Buildings—(Assessed on an individual basis)	
Dry Dehydrators (Driers)—(See Scrubbers)	
Engines-Unattached—(Only includes engine & skids):	
Per Horsepower	300
Evaporators—(Assessed on an individual basis)	
Expander Unit—(No metering equipment included):	34,500
Per Unit	
Flow Splitters—(No metering equipment included):	
48 In. Diameter Vessel	16,800
72 In. Diameter Vessel	22,250
96 In. Diameter Vessel	34,100
120 In. Diameter Vessel	48,450
Fire Control System—(Assessed on an individual basis)	
Furniture & Fixtures—(Assessed on an individual basis) (Field operations only, according to location.)	
Gas Compressors-Package Unit—(skids, scrubbers, cooling system, and power controls. No metering or regulating equipment.):	
50 HP and less - Per HP	1,280
51 HP to 100 HP - Per HP	1,100
101 HP and higher - Per HP	800
Property Description	\$ Cost- New
Gas Coolers—(No metering equipment):	
5,000 MCF/D	26,500
10,000 MCF/D	29,850
20,000 MCF/D	92,850
50,000 MCF/D	210,650
100,000 MCF/D	345,000
Generators—Package Unit only -(No special installation) Per K.W.	200
Glycol Dehydration-Package Unit—(including pressure gauge, relief valve and regulator. No other metering equipment.):	
Up to 4.0 MMCF/D	18,600
4.1 to 5.0 MMCF/D	20,750
5.1 to 10.0 MMCF/D	40,000
10.1 to 15.0 MMCF/D	55,650
15.1 to 20.0 MMCF/D	75,750
20.1 to 25.0 MMCF/D	98,500
25.1 to 30.0 MMCF/D	187,100
30.1 to 50.0 MMCF/D	209,000
50.1 to 75.0 MMCF/D	260,000
75.1 & Up MMCF/D	300,000

Table 907.C.1 Surface Equipment	
Property Description	\$ Cost New
Heaters—(includes unit, safety valves, regulators and automatic shut-down. No metering equipment.):	
Steam Bath—Direct Heater:	
24 In. Diameter Vessel - 250,000 BTU/HR Rate	6,450
30 In. Diameter Vessel - 500,000 BTU/HR Rate	8,100
36 In. Diameter Vessel - 750,000 BTU/HR Rate	9,800
48 In. Diameter Vessel - 1,000,000 BTU/HR Rate	14,500
60 In. Diameter Vessel - 1,500,000 BTU/HR Rate	17,900
Water Bath—Indirect Heater:	
24 In. Diameter Vessel - 250,000 BTU/HR Rate	5,500
30 In. Diameter Vessel - 500,000 BTU/HR Rate	7,550
36 In. Diameter Vessel - 750,000 BTU/HR Rate	9,850
48 In. Diameter Vessel - 1,000,000 BTU/HR Rate	13,950
60 In. Diameter Vessel - 1,500,000 BTU/HR Rate	17,850
Steam—(Steam Generators):	
24 In. Diameter Vessel - 250,000 BTU/HR Rate	7,050
30 In. Diameter Vessel - 450,000 BTU/HR Rate	8,800
36 In. Diameter Vessel - 500 to 750,000 BTU/HR Rate	13,200
48 In. Diameter Vessel - 1 to 2,000,000 BTU/HR Rate	15,150
60 In. Diameter Vessel - 2 to 3,000,000 BTU/HR Rate	17,150
72 In. Diameter Vessel - 3 to 6,000,000 BTU/HR Rate	27,100
96 In. Diameter Vessel - 6 to 8,000,000 BTU/HR Rate	32,550
Heat Exchange Units-Skid Mounted—(See Production Units)	
Heater Treaters—(Necessary controls, gauges, valves and piping. No metering equipment included.):	
Heater - Treaters - (Non-metering):	
4 x 20 ft.	14,100
4 x 27 ft.	18,150
6 x 20 ft.	19,000
6 x 27 ft.	23,900
8 x 20 ft.	30,450
8 x 27 ft.	35,650
10 x 20 ft.	40,250
10 x 27 ft.	47,350
L.A.C.T. (Lease Automatic Custody Transfer) - See Metering Equipment)	
JT Skid (Low Temperature Extraction) - (includes safety valves, temperature controllers, chokes, regulators, metering equipment, etc. - complete unit.):	
Up to 2 MMCF/D	35,000
Up to 5 MMCF/D	50,000
Up to 10 MMCF/D	120,000
Up to 20 MMCF/D	200,000
Liqua Meter Units—(See Metering Equipment)	
Manifolds—(See Metering Equipment)	
Material & Supplies-Inventories—(Assessed on an individual basis)	
Meter Calibrating Vessels—(See Metering Equipment)	
Meter Prover Tanks—(See Metering Equipment)	
Meter Runs—(See Metering Equipment)	
Meter Control Stations—(not considered Communication Equipment) - (Assessed on an individual basis)	
Metering Equipment	
Actuators—hydraulic, pneumatic & electric valves	5,450
Controllers—time cycle valve - valve controlling device (also known as Intermitter)	1,700
Fluid Meters:	
1 Level Control	
24 In. Diameter Vessel - 1/2 bbl. Dump	4,150
30 In. Diameter Vessel - 1 bbl. Dump	5,350
36 In. Diameter Vessel - 2 bbl. Dump	7,400
2 Level Control	
20 In. Diameter Vessel - 1/2 bbl. Dump	3,900
24 In. Diameter Vessel - 1/2 bbl. Dump	4,700
30 In. Diameter Vessel - 1 bbl. Dump	5,900
36 In. Diameter Vessel - 2 bbl. Dump	7,950

Table 907.C.1 Surface Equipment	
Property Description	\$ Cost New
L.A.C.T. & A.T.S. Units:	
30 lb. Discharge	26,200
60 lb. Discharge	29,850
Manifolds—Manual Operated:	
High Pressure	
per well	20,550
per valve	6,950
Low Pressure	
per well	9,950
per valve	3,300
Manifolds—Automatic Operated:	
High Pressure	
per well	37,150
per valve	12,250
Low Pressure	
per well	26,500
per valve	8,950
NOTE: Automatic Operated System includes gas hydraulic and pneumatic valve actuators, (or motorized valves), block valves, flow monitors-in addition to normal equipment found on manual operated system. No Metering Equipment Included.	
Meter Runs—piping, valves & supports – no meters:	
2 In. piping & valve	5,600
3 In. piping & valve	6,300
4 In. piping & valve	7,600
6 In. piping & valve	10,600
8 In. piping & valve	15,920
10 In. piping & valve	21,200
12 In. piping & valve	26,500
14 In. piping & valve	36,100
16 In. piping & valve	47,150
18 In. piping & valve	58,400
20 In. piping & valve	75,900
22 In. piping & valve	95,650
24 In. piping & valve	117,100
Metering Vessels (Accumulators):	
1 bbl. calibration plate (20 x 9)	3,250
5 bbl. calibration plate (24 x 10)	3,500
7.5 bbl. calibration plate (30 x 10)	4,900
10 bbl. calibration plate (36 x 10)	6,100
Recorders (Meters)—Includes both static element and tube drive pulsation dampener-also one and two pen operations.	
per meter	2,250
Solar Panel (also see Telecommunications)	
per unit (10' x 10')	300
Pipe Lines—Lease Lines	
Steel	
2 In. nominal size - per mile	16,300
2 1/2 In. nominal size - per mile	21,950
3 & 3 1/2 In. nominal size - per mile	28,000
4, 4 1/2 & 5 In. nominal size - per mile	48,150
6 In. nominal size - per mile	70,700
Poly Pipe	
2 In. nominal size - per mile	8,950
2 1/2 In. nominal size - per mile	12,050
3 In. nominal size - per mile	15,400
4 In. nominal size - per mile	26,450
6 In. nominal size - per mile	38,850
Plastic-Fiberglass	
2 In. nominal size - per mile	13,900
3 In. nominal size - per mile	23,800
4 In. nominal size - per mile	40,900
6 In. nominal size - per mile	60,050
NOTE: Allow 90% obsolescence credit for lines that are inactive, idle, open on both ends and dormant, which are being carried on corporate records solely for the purpose of retaining right of ways on the land and/or due to excessive capital outlay to refurbish or remove the lines.	

Table 907.C.1 Surface Equipment	
Property Description	\$ Cost New
Pipe Stock—(Assessed on an individual basis)	
Pipe Stock - Exempt—Under La. Const., Art. X, §4 (19-C)	
Production Units:	
Class I - per unit - separator & 1 heater – 500 MCF/D	17,600
Class II - per unit - separator & 1 heater – 750 MCF/D	23,450
Production Process Units—These units are by specific design and not in the same category as gas compressors, liquid and gas production units or pump-motor units. (Assessed on an individual basis.)	
Pumps—In Line	
per horsepower rating of motor	250
Pump-Motor Unit—pump and motor only	
Class I - (water flood, s/w disposal, p/l, etc.)	
Up to 300 HP - per HP of motor	300
Class II - (high pressure injection, etc.)	
301 HP and up per HP of motor	350
Pumping Units-Conventional & Beam Balance—(Unit value includes motor) - assessed according to API designation.	
16 D	5,750
25 D	10,800
40 D	13,500
57 D	18,000
80 D	30,050
114 D	31,250
160 D	42,050
228 D	45,650
320 D	57,700
456 D	68,500
640 D	82,950
912 D	87,750
NOTE: For "Air Balance" and "Heavy Duty" units, multiply the above values by 1.30.	
Regenerators (Accumulator)—(See Metering Equipment)	
Regulators:	
per unit	2,300
Safety Systems	
Onshore And Marsh Area	
Basic Case:	
well only	4,600
well & production equipment	5,300
with surface op. ssv, add	7,950
Offshore 0 - 3 Miles	
Wellhead safety system (excludes wellhead actuators)	
per well	13,250
production train	33,150
glycol dehydration system	19,900
P/L pumps and LACT	46,400
Compressors	29,150
Wellhead Actuators (does not include price of the valve)	
5,000 psi	3,300
10,000 psi and over	4,950
NOTE: For installation costs - add 25%	
Sampler—(See Metering Equipment - "Fluid Meters")	
Scrubbers—Two Classes	
Class I - Manufactured for use with other major equipment and, at times, included with such equipment as part of a package unit.	
8 In. Diameter Vessel	2,800
10 In. Diameter Vessel	4,000
12 In. Diameter Vessel	4,550
Class II - Small "in-line" scrubber used in flow system usually direct from gas well. Much of this type is "shop-made" and not considered as major scrubbing equipment.	
8 In. Diameter Vessel	1,300
12 In. Diameter Vessel	1,700
NOTE: No metering or regulating equipment included in the above.	

Table 907.C.1 Surface Equipment	
Property Description	\$ Cost New
Separators—(No metering equipment included)	
Horizontal—Filter /1,440 pci (High Pressure)	
6-5/8" OD x 5'-6"	4,100
8-5/8" OD x 7'-6"	4,450
10-3/4" OD x 8'-0"	6,250
12-3/4" OD x 8'-0"	8,400
16" OD x 8'-6"	13,500
20" OD x 8'-6"	19,950
20" OD x 12'-0"	21,000
24" OD x 12'-6"	28,300
30" OD x 12'-6"	41,300
36" OD x 12'-6"	49,100
Separators—(No metering equipment included)	
Vertical 2—Phase /125 pci (Low Pressure)	
24" OD x 7'-6"	4,650
30" OD x 10'-0"	5,000
36" OD x 10'-0"	10,450
Vertical 3—Phase /125 pci (Low Pressure)	
24" OD x 7'-6"	4,900
24" OD x 10'-0"	5,550
30" OD x 10'-0"	7,700
36" OD x 10'-0"	10,950
42" OD x 10'-0"	12,700
Horizontal 3—Phase /125 pci (Low Pressure)	
24" OD x 10'-0"	7,250
30" OD x 10'-0"	9,300
36" OD x 10'-0"	10,150
42" OD x 10'-0"	16,200
Vertical 2—Phase /1440 pci (High Pressure)	
12-3/4" OD x 5'-0"	2,750
16" OD x 5'-6"	4,100
20" OD x 7'-6"	7,800
24" OD x 7'-6"	9,450
30" OD x 10'-0"	14,400
36" OD x 10'-0"	18,650
42" OD x 10'-0"	29,850
48" OD x 10'-0"	35,200
54" OD x 10'-0"	53,300
60" OD x 10'-0"	66,650
Vertical 3 - Phase /1440 pci (High Pressure)	
16" OD x 7'-6"	4,800
20" OD x 7'-6"	8,400
24" OD x 7'-6"	9,750
30" OD x 10'-0"	15,050
36" OD x 10'-0"	19,250
42" OD x 10'-0"	31,400
48" OD x 10'-0"	36,400
Horizontal 2—Phase /1440 pci (High Pressure)	
16" OD x 7'-6"	4,700
20" OD x 7'-6"	7,550
24" OD x 10'-0"	10,300
30" OD x 10'-0"	15,850
36" OD x 10'-0"	20,100
42" OD x 15'-0"	40,800
48" OD x 15'-0"	47,050
Separators—(No metering equipment included)	
Horizontal 3—Phase /1440 pci (High Pressure)	
16" OD x 7'-6"	7,250
20" OD x 7'-6"	8,100
24" OD x 10'-0"	11,800
30" OD x 10'-0"	16,800
36" OD x 10'-0"	24,200
36" OD x 15'-0"	27,050
Offshore Horizontal 3—Phase /1440 pci (High Pressure)	
30" OD x 10'-0"	34,850
36" OD x 10'-0"	33,250
36" OD x 12'-0"	48,250
36" OD x 15'-0"	50,350
42" OD x 15'-0"	78,150
Skimmer Tanks—(See Flow Tanks in Tanks section)	
Stabilizers—per unit	5,150

Table 907.C.1 Surface Equipment	
Property Description	\$ Cost New
Sump/Dump Tanks—(See Metering Equipment -"Fluid Tanks")	
Tanks—No metering equipment	
Flow Tanks (receiver or gunbarrel)	
50 to 548 bbl. Range (average tank size - 250 bbl.)	32.20
Stock Tanks (lease tanks)	
100 to 750 bbl. Range (average tank size - 300 bbl.)	25.00
Storage Tanks (Closed Top)	
1,000 barrel	21.30
1,500 barrel	18.80
2,000 barrel	18.30
2,001 - 5,000 barrel	16.80
5,001 - 10,000 barrel	15.80
10,001 - 15,000 barrel	14.80
15,001 - 55,000 barrel	10.35
55,001 - 150,000 barrel	7.80
Internal Floating Roof	
10,000 barrel	30.40
20,000 barrel	20.60
30,000 barrel	15.30
50,000 barrel	13.60
55,000 barrel	13.10
80,000 barrel	11.60
100,000 barrel	10.10
*I.E.: (tanks size bbls.) X (no. of bbls.) X (cost-new factor.)	
Telecommunications Equipment	
Microwave System	
Telephone & data transmission	40,000
Radio telephone	3,000
Supervisory controls:	
remote terminal unit, well	8,550
master station	19,500
towers (installed):	
heavy duty, guyed, per foot	500
light duty, guyed, per foot	40
heavy duty, self supporting, per foot	510
light duty, self supporting, per foot	110
equipment building, per sq. ft.	150
solar panels, per sq. ft.	50
Utility Compressors	
per horsepower - rated on motor	660
Vapor Recovery Unit—No Metering Equipment	
60 MCF/D or less	17,500
105 MCF/D max	25,000
250 MCF/D max	33,000
Waterknockouts—Includes unit, backpressure valve & regulator, but, no metering equipment.	
2' diam. x 16'	4,750
3' diam. x 10'	7,100
4' diam. x 10'	9,800
6' diam. x 10'	16,050
6' diam. x 15'	18,550
8' diam. x 10'	23,250
8' diam. x 15'	26,700
8' diam. x 20'	29,600
8' diam. x 25'	32,950
10' diam. x 20'	38,750

Table 907.C.2 Service Stations Marketing Personal Property *Alternative Procedure	
Property Description	\$ Cost New
Air and Water Units:	
Above ground	1,120
Below ground	475
Air Compressors:	
1/3 to 1 H.P.	1,500
1/2 to 5 H.P.	2,530

Table 907.C.2 Service Stations Marketing Personal Property *Alternative Procedure	
Property Description	\$ Cost New
Car Wash Equipment:	
In Bay (roll over brushes)	40,250
In Bay (pull through)	62,480
Tunnel (40 to 50 ft.)	136,000
Tunnel (60 to 75 ft.)	182,000
Drive On Lifts:	
Single Post	7,350
Dual Post	8,280
Lights:	
Light Poles (each)	750
Lights - per pole unit	830
Pumps:	
Non-Electronic - self contained and/or remote controlled computer	
Single	3,180
Dual	4,730
Computerized - non-self service, post pay, pre/post pay. self contained and/or remote controlled dispensers	
Single	5,380
Dual	7,250
Read-Out Equipment (at operator of self service)	1,180
Per Hose Outlet	
Signs:	
Station Signs	
6 ft. lighted - installed on 12 ft. pole	3,550
10 ft. lighted - installed on 16 ft. pole	6,500
Attachment Signs (for station signs)	
Lighted "self-serve" (4 x 11 ft.)	2,960
Lighted "pricing" (5 x 9 ft.)	3,030
High Rise Signs - 16 ft. lighted - installed on:	
1 pole	10,760
2 poles	14,080
3 poles	15,750
Attachment Signs (for high rise signs)	
Lighted "self-serve" (5 x 17 ft.)	5,720
Lighted "pricing" (5 x 9 ft.)	3,030
Submerged Pumps—(used with remote control equipment, according to number used - per unit)	3,175
Tanks—(average for all tank sizes)	
Underground - per gallon	1.80

NOTE: The above represents the cost-new value of modern stations and self-service marketing equipment. Other costs associated with such equipment are included in improvements. Old style stations and equipment should be assessed on an individual basis, at the discretion of the tax assessor, when evidence is furnished to substantiate such action.

*This alternative assessment procedure should be used only when acquisition cost and age are unknown or unavailable. Otherwise, see general business section (Chapter 25) for normal assessment procedure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2326.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:205 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:480 (March 1998), LR 25:313 (February 1999), LR 26:507 (March 2000), LR 27:425 (March 2001), LR 28:518 (March 2002), LR 29:368 (March 2003), LR 30:488 (March 2004), LR 31:717 (March 2005), LR 32:431 (March 2006), LR 33:492 (March 2007), LR 34:679 (April 2008).

Chapter 11. Drilling Rigs and Related Equipment §1103. Drilling Rigs and Related Equipment Tables

A. Land Rigs

Table 1103.A Land Rigs		
Depth "0" to 7,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
	\$	\$
3,000	630,300	94,500
4,000	750,200	112,500
5,000	980,000	147,000
6,000	1,244,800	186,700
7,000	1,669,600	250,400
Depth 8,000 to 10,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
	\$	\$
8,000	2,104,300	315,600
9,000	2,548,900	382,300
10,000	3,003,500	450,500
Depth 11,000 to 15,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
	\$	\$
11,000	3,468,100	520,200
12,000	3,942,600	591,400
13,000	4,427,100	664,100
14,000	4,921,500	738,200
15,000	5,425,900	813,900
Depth 16,000 to 20,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
	\$	\$
16,000	5,940,200	891,000
17,000	6,464,500	969,700
18,000	6,998,700	1,049,800
19,000	7,542,900	1,131,400
20,000	8,097,100	1,214,600
Depth 21,000 + Feet		
Depth (Ft.)	Fair Market Value	Assessment
	\$	\$
21,000	8,661,100	1,299,200
25,000 +	9,235,200	1,385,300

Barges (Hull)—Assess Barges (Hull) at 25 percent of the assessment for the rig value bracket, and add this to the proper rig assessment to arrive at total for barge and its drilling rig.

Living quarters are to be assessed on an individual basis.

B. Jack-Ups

Table 1103.B Jack-Ups			
Type	Water Depth Rating	Fair Market Value	Assessment
IC		***	
	200-299 FT.	50,000,000	7,500,000
	300-Up FT.	150,000,000	22,500,000

C. Semisubmersible Rigs

Table 1103.C Semisubmersible Rigs		
Water Depth Rating	Fair Market Value	Assessment
0-800 ft.		***
801-1,800 ft.		***
1,801-2,500 ft.	\$ 150,000,000	22,500,000
2,501-Up ft.	\$ 200,000,000	30,000,000

* * *

D. Well Service Rigs Land Only (Good Condition)

Table 1103.D Well Service Rigs Land Only (Good Condition)				
Class	Mast	Engine	Fair Market Value	Assessment
I	72' X 125M# 75' X 150M#	6V71	213,500	32,100
II	96' X 150M# 96' X 180M# 96' X 185M# 96' X 205M# 96' X 210M# 96' X 212M# 96' X 215M#	8V71	306,250	45,900
III	96' X 240M# 96' X 250M# 96' X 260M# 102' X 215M#	8V92	354,400	53,200
IV	102' X 224M# 102' X 250M# 103' X 225M# 103' X 250M# 104' X 250M# 105' X 225M# 105' X 250M#	12V71	402,500	60,400
V	105' X 280M# 106' X 250M# 108' X 250M# 108' X 260M# 108' X 268M# 108' X 270M# 108' X 300M#	12V71 12V92	450,600	67,600
VI	110' X 250M# 110' X 275M# 112' X 300M# 112' X 350M#	12V71 (2) 8V92	481,250	72,200
VII	117' X 215M#	(2) 8V92 (2) 12V71	551,250	82,700

* * *

1. The fair market values and assessed values indicated by these tables are based on the current market (sales) appraisal approach and not the cost approach.

2. These tables assume complete rigs in good condition. If it is documented to the assessor that any rig is incomplete or is in less than good condition, these amounts should be adjusted.

3. Significant variations from the "good" condition are possible and must be considered when the drilling rig is valued. These variations in condition are acknowledged by HADCO in the newsletter pricing. Conditions from "poor" to "excellent" are priced for all depth ratings. If adjustments are needed, the most recent HADCO newsletter shall be used to determine the proper adjusted condition.

a. Significant factors that would downgrade the condition can be identified by the following data:

i. a detailed estimate and description of substantial capital repairs needed on the rig and/or rig data sheet verifying the rig is of outdated technology (mechanical rig or the like).

b. Significant factors that would upgrade the condition can be identified by the following data:

i. a rig manufacture date on the LAT form of less than three years.

E. Consideration of Obsolescence

1. Functional obsolescence is a loss in value of personal property above and beyond physical deterioration. Upon a showing of evidence of such loss, substantiated by the taxpayer in writing, functional obsolescence may be given.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:939 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 22:117 (February 1996), LR 23:205 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:487 (March 1998), LR 25:315 (February 1999), LR 26:508 (March 2000), LR 27:426 (March 2001), LR 28:519 (March 2002), LR 30:488 (March 2004), LR 31:718 (March 2005), LR 32:431 (March 2006), LR 33:493 (March 2007), LR 34:683 (April 2008).

Chapter 13. Pipelines

§1307. Pipeline Transportation Tables

A. Current Costs for Other Pipelines Onshore

Table 1307.A Current Costs for Other Pipelines Onshore		
Diameter (inches)	Cost per Mile	15% of Cost per Mile
2	\$ 142,770	\$ 21,420
4	167,250	25,090
6	195,910	29,390
8	229,490	34,420
10	268,830	40,320
12	314,900	47,240
14	368,880	55,330
16	432,100	64,820
18	506,160	75,920
20	592,920	88,940
22	694,550	104,180
24	813,590	122,040
26	953,040	142,960
28	1,116,400	167,460
30	1,307,750	196,160
32	1,531,900	229,780
34	1,794,460	269,170
36	2,102,040	315,310
38	2,462,330	369,350
40	2,884,370	432,660
42	3,378,750	506,810
44	3,957,870	593,680
46	4,636,250	695,440
48	5,430,910	814,640

NOTE: Excludes river and canal crossings

B. Current Costs for Other Pipelines Offshore

Table 1307.B Current Costs for Other Pipelines Offshore		
Diameter (inches)	Cost per Mile	15% of Cost per Mile
6	\$841,680	\$126,250
8	845,680	126,850
10	848,970	127,340
12	860,060	129,010
14	878,960	131,840
16	905,650	135,850
18	940,150	141,020
20	982,460	147,370

Diameter (inches)	Cost per Mile	15% of Cost per Mile
22	1,032,560	154,880
24	1,090,470	163,570
26	1,156,180	173,430
28	1,229,690	184,450
30	1,311,010	196,650
32	1,400,130	210,020
34	1,497,050	224,560
36	1,601,770	240,270
38	1,714,290	257,140
40	1,834,620	275,190
42	1,962,750	294,410
44	2,098,680	314,800
46	2,242,410	336,360
48	2,393,950	359,090

C. ...

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:941 (November 1984), LR 12:36 (January 1986), LR 16:1063 (December 1990), amended by the Department of Revenue, Tax Commission, LR 24:489 (March 1998), LR 25:316 (February 1999), LR 26:509 (March 2000), LR 27:426 (March 2001), LR 31:719 (March 2005), LR 32:432 (March 2006), LR 33:494 (March 2007), LR 34:684 (April 2008).

Chapter 15. Aircraft

§1503. Aircraft (Including Helicopters) Table

A. Aircraft (Including Helicopters)

Cost Index (Average)		Average Economic Life (10 Years)		
Year	Index	Effective Age	Percent Good	Composite Multiplier
2007	0.986	1	97	.96
2006	1.040	2	93	.97
2005	1.088	3	90	.98
2004	1.170	4	86	1.01
2003	1.210	5	82	.99
2002	1.231	6	78	.96
2001	1.238	7	74	.92
2000	1.249	8	70	.87
1999	1.271	9	65	.83
1998	1.275	10	60	.77
1997	1.286	11	55	.71
1996	1.307	12	50	.65
1995	1.327	13	45	.60
1994	1.374	14	40	.55
1993	1.413	15	35	.49
1992	1.441	16	31	.45
1991	1.458	17	27	.39
1990	1.487	18	24	.36
1989	1.527	19	22	.34
1988	1.609	20	21	.34
1987	1.678	21	20	.34

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:943 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR

16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:206 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:490 (March 1998), LR 25:316 (February 1999), LR 26:509 (March 2000), LR 27:427 (March 2001), LR 28:520 (March 2002), LR 29:370 (March 2003), LR 30:489 (March 2004), LR 31:719 (March 2005), LR 32:433 (March 2006), LR 34:685 (April 2008).

Chapter 25. General Business Assets

§2501. Guidelines for Ascertaining the Fair Market Value of Office Furniture and Equipment, Machinery and Equipment and Other Assets Used in General Business Activity

A. Because the information necessary to use the market and income approaches to value is generally not available, the fair market value of office furniture and equipment, machinery and equipment and other assets used in general business activity can generally best be estimated by the cost approach. This approach allows the assessors across the state of Louisiana to fairly and uniformly assess business and industrial personal property, while, at the same time, allowing each assessor the discretion that is necessary to accommodate modernization, facelifting of equipment, and obsolescence.

B. The following data is required to use the cost approach to value:

1. total acquisition costs of equipment including freight, installation, taxes and fees, as well as, date of purchase;
2. an index that adjusts the cost for the effects of inflation;
3. the average expected economic life of the equipment;
4. a typical depreciation schedule for the equipment; and
5. information to determine external (economic) and/or functional obsolescence, if any.

C. The assessor should obtain from the taxpayer the acquisition cost of the equipment, the actual age of the equipment, and any information that may reflect on the average economic life and fair market value of the equipment. These regulations, as adopted by the Louisiana Tax Commission, contain guidelines for average economic life, typical depreciation schedules and cost indices.

D. Three different procedures are defined for establishing fair market value when using the cost approach: Procedure 1 shall be used for the typical business and industrial personal property which has an average economic life equal to the guidelines, and that has not incurred any external (economic) and/or functional obsolescence. Alternative Procedure 2 should only be used for the business and industrial personal property which has an average life that is either lower or higher than the guidelines. Alternative Procedure 3 should only be used for the business and industrial personal property that has incurred external (economic) and/or functional obsolescence. An assessor or taxpayer wishing to deviate from Procedure 1 shall bear the burden of proving that the alternative procedure elected establishes the fair market value of the property.

E. Composite multipliers are computed for the assessor in Procedure 1 and presented in Table 2503.D. These tables shall be updated annually by the Tax Commission in order to comply with uniform assessment of personal property.

F. Procedure 1

1. This procedure for establishing the fair market value of business and industrial personal property (excluding oil and gas properties, drilling rigs, inventories and leased equipment), includes these steps:

- a. classify the personal property according to the classifications listed in Table 2503.A;
- b. the classification table will refer the assessor to the correct composite multiplier table. The composite multiplier is a composite of the cost index and the percent good;
- c. select the correct composite multiplier from this table, based on the actual age of the equipment (See example below);
- d. multiply the composite multiplier times the acquisition cost of the equipment. The result is the fair market value of the equipment;
- e. in the year in which the personal property has reached its minimum percent good, the applicable composite multiplier in use at that time is "frozen." For the assessment years that follow, the RCNLD value does not change until the personal property is permanently taken out of service. An exception to this rule applies when the property has been reconditioned to extend its remaining economic life.

2. For example, the age 1 composite multiplier applies to personal property purchased the year prior to the year it is being assessed (two years back for Orleans Parish) and so on for the other ages.

G. Alternative Procedure 2

1. If an assessor determines that economic lives are over or understated for certain personal property, an appropriate composite multiplier can be derived as illustrated below:

- a. select the average economic life of the personal property based on information available;
- b. go to Table 2503.C and select the percent good based upon the actual age of the property;
- c. select the appropriate cost index from Table 2503.B based on the year of acquisition;
- d. multiply the percent good times the cost index to calculate the composite multiplier;
- e. multiply the composite multiplier times the acquisition cost of the personal property in order to derive the fair market value of the personal property;
- f. in the year in which the personal property has reached its minimum percent good, the applicable composite multiplier in use at that time is "frozen". For the assessment years that follow, the RCNLD value does not change until the personal property is permanently taken out of service. An exception to this rule applies when the property has been reconditioned to extend its remaining economic life.

2. This procedure should only be used if the assessor has proof that the average economic life of the personal property is different from the average economic life as provided in the guidelines. Otherwise, use Procedure 1 to calculate the fair market value.

H. Alternative Procedure 3

1. This procedure should be used only if external (economic) and/or functional obsolescence has affected the fair market value of the business and industrial personal property. External (economic) and functional obsolescence are defined in Section 301 of these rules and regulations.

Negative economic obsolescence may occur resulting in a positive adjustment known as munificence.

2. The steps are:

- a. acquire the acquisition cost and year acquired of the personal property;
- b. multiply the acquisition cost times the cost index that corresponds to the year acquired from Table 2503.B;
- c. multiply the number derived in Step b by the percent good that corresponds to the year acquired from Table 2503.C;
- d. adjust the number derived in Step c for functional obsolescence/munificence if any;
- e. adjust the number derived in Step d for external (economic) obsolescence, if any; the result is the fair market value of personal property that has been affected by external (economic) and/or functional obsolescence/munificence;
- f. in the year in which the personal property has reached its minimum percent good, the applicable composite multiplier in use at that time is "frozen". For the assessment years that follow, the RCNLD value does not change until the personal property is permanently taken out of service. An exception to this rule applies when the property has been reconditioned to extend its remaining economic life.

3. This procedure should be used only if the assessor has evidence that the personal property has incurred significant external (economic) and/or functional obsolescence/munificence.

4. If external (economic) and/or functional obsolescence/munificence, when documented and supported by the taxpayer, is not included in the valuation when warranted, a value greater or lower than fair market value will result.

5. Otherwise, use Procedure 1 to calculate the fair market value.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:943 (November 1984), LR 12:36 (January 1986), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), amended by the Department of Revenue, Tax Commission, LR 31:719 (March 2005), LR 33:495 (March 2007), LR 34:685 (April 2008).

§2503. Tables Ascertaining Economic Lives, Percent Good and Composite Multipliers of Business and Industrial Personal Property

A. - A.1. ...

Table 2503.A Business Activity/Type of Equipment	Average Economic Life in Years
Agricultural Machinery & Equipment	***
Feed Mill Equipment (Production Line)	***
***	***
Cash Registers & Scanners (Also See Supermarkets)	***
Cellular/PCS	
Antennas	6
Cellular/PCS Telephone Handsets	3
Electronics	6
Leasehold Improvements	15
Power and Batteries	6
Switching	6
Towers – Cellular/PCS and Microwave	20
Transmission	6

Cement, Clay & Brick Prods. Mfg. M & E	***
***	***
Supermarkets	
Cash Registers & Scanners	5
***	***
***	***

B. Cost Indices

Table 2503.B Cost Indices			
Year	Age	National Average 1926 = 100	January 1, 2007 = 100*
2007	1	1373.3	0.986
2006	2	1302.3	1.040
2005	3	1244.5	1.088
2004	4	1157.3	1.170
2003	5	1118.6	1.210
2002	6	1100.0	1.231
2001	7	1093.4	1.238
2000	8	1084.3	1.249
1999	9	1065.0	1.271
1998	10	1061.8	1.275
1997	11	1052.7	1.286
1996	12	1036.0	1.307
1995	13	1020.4	1.327
1994	14	985.0	1.374
1993	15	958.0	1.413
1992	16	939.8	1.441
1991	17	928.5	1.458
1990	18	910.2	1.487
1989	19	886.5	1.527
1988	20	841.4	1.609
1987	21	806.9	1.678
1986	22	795.4	1.702
1985	23	787.9	1.718
1984	24	776.4	1.744
1983	25	755.8	1.791
1982	26	742.4	1.824

*Reappraisal Date: January 1, 2007 – 1353.8 (Base Year)

C. Percent Good

Table 2503.C Percent Good									
Age	3 Yr	5 Yr	6 Yr	8 Yr	10 Yr	12 Yr	15 Yr	20 Yr	25 Yr
1	.70	.85	.87	.90	.92	.94	.95	.97	.98
2	.49	.69	.73	.79	.84	.87	.90	.93	.95
3	.34	.52	.57	.67	.76	.80	.85	.90	.93
4	.16	.34	.41	.54	.67	.73	.79	.86	.90
5		.23	.30	.43	.58	.66	.73	.82	.87
6		.18	.19	.33	.49	.58	.68	.78	.84
7			.18	.26	.39	.50	.62	.74	.81
8				.22	.30	.43	.55	.70	.78
9				.20	.24	.36	.49	.65	.75
10					.21	.29	.43	.60	.71
11					.20	.24	.37	.55	.68
12						.22	.31	.50	.64
13						.20	.26	.45	.60
14							.23	.40	.56
15							.21	.35	.52
16							.20	.31	.48
17								.27	.44
18								.24	.39
19								.22	.34

Table 2503.C Percent Good									
Age	3 Yr	5 Yr	6 Yr	8 Yr	10 Yr	12 Yr	15 Yr	20 Yr	25 Yr
20								.21	.30
21								.20	.28
22									.26
23									.24
24									.20
25									.20
26									.20

D. Composite Multipliers 2008 (2009 Orleans Parish)

Table 2503.D Composite Multipliers 2008 (2009 Orleans Parish)									
Age	3 Yr	5 Yr	6 Yr	8 Yr	10 Yr	12 Yr	15 Yr	20 Yr	25 Yr
1	.69	.84	.86	.89	.91	.93	.94	.96	.97
2	.51	.72	.76	.82	.87	.90	.94	.97	.99
3	.37	.57	.62	.73	.83	.87	.92	.98	1.01
4	.19	.40	.48	.63	.78	.85	.92	1.01	1.05
5		.28	.36	.52	.70	.80	.88	.99	1.05
6		.22	.23	.41	.60	.71	.84	.96	1.03
7			.22	.32	.48	.62	.77	.92	1.00
8				.27	.37	.54	.69	.87	.97
9				.25	.31	.46	.62	.83	.95
10					.27	.37	.55	.77	.91
11					.26	.31	.48	.71	.87
12						.29	.41	.65	.84
13						.27	.35	.60	.80
14							.32	.55	.77
15							.30	.49	.73
16							.29	.45	.69
17								.39	.64
18								.36	.58
19								.34	.52
20								.34	.48
21								.34	.47
22									.44
23									.41
24									.35
25									.36
26									.36

1. - 1.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 9:69 (February 1983), LR 10:944 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:207 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:490 (March 1998), LR 25:317 (February 1999), LR 26:509 (March 2000), LR 27:427 (March 2001), LR 28:520 (March 2002), LR 29:370 (March 2003), LR 30:489 (March 2004), LR 31:719 (March 2005), LR 32:433 (March 2006), LR 33:496 (March 2007), LR 34:686 (April 2008).

Chapter 27. Guidelines for Application and Assessment of Land Eligible to be Assessed at Use Value

§2711. Tables—Agricultural and Horticultural Lands

A. The following table is hereby established as the gross returns, production cost and net income per acre per year of agricultural and horticultural lands.

Table 2711.A Weighted Average Income per Acre 2003-2006				
Commodity	Acres	Percent	Net Income	Weighted Fractional
Beef **	2,348,316	38.267	(46.25)	-0-
Soybeans(Wheat)*	902,500	14.707	2.33	34.27
Cotton	567,500	9.248	86.15	796.72
Rice (Crawfish)*	468,250	7.630	4.25	32.43
Sugarcane	426,250	6.946	86.58	601.38
Com	395,000	6.437	(12.39)	-0-
Idle Crop ***	522,794	8.519	-----	-0-
Grain Sorghum	108,750	1.772	4.03	7.14
Conservation Reserve	243,442	3.967	46.45	184.27
Dairy **	123,153	2.007	23.64	47.45
Sweet Potatoes	17,750	0.289	1,011.01	292.18
Catfish	6,934	0.113	(551.35)	-0-
Watermelon	3,293	0.054	314.95	17.01
Southern Peas	1,758	0.029	894.02	25.93
Tomatoes	592	0.010	19,247.42	192.47
Strawberries	414	0.007	8,805.92	61.64
Totals	6,136,696	100.000	---	2,292.89

Weighted Average Net Income—\$22.93

*Wheat is typically grown as a double crop with soybeans. Farm-raised crawfish is normally a double crop with rice.

**Acreage for beef and dairy were obtained from the 2002 Census of Agriculture, Vol. 1:Part 18, Louisiana State and Parish Data, Table 50.

***Acreage for idle cropland was obtained from the 2002 Census of Agriculture, Vol. 1:Part 18, Louisiana State and Parish Data, Table 8. Includes acreage for cropland idle or used for cover crops or soil-improvement, but not harvested and not pastured or grazed.

NOTE: By state statute, negative net income for a given commodity is set equal to zero.

B. Suggested Capitalization Rate for Agricultural and Horticultural Lands

Table 2711.B Suggested Capitalization Rate for Agricultural and Horticultural Lands	
Risk Rate	2.72%
Illiquidity Rate	0.18%
Safe Rate*	4.91%
Capitalization Rate**	7.81%

*Safe Rate is four year average of 30 year U. S. Treasury securities.

**Statutory minimum capitalization rate of 12 percent used in calculations instead of actual rate as developed above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:2301 through R.S. 47:2308.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 9:69 (February 1983), LR 12:36 (January 1986), LR 13:764 (December 1987), LR 17:1213 (December 1991), LR 22:117 (February 1996), amended by the Department of Revenue, Tax Commission, LR 26:511 (March 2000), LR 30:491 (March 2004), LR 34:688 (April 2008).

Chapter 31. Public Exposure of Assessments; Appeals §3101. Public Exposure of Assessments, Appeals to the Board of Review and Board of Review Hearings

A. - K. ...

**Form 3101
Exhibit A**

**Appeal to Board of Review by Taxpayer
for Real and Personal Property**

Name: _____ Parish/District: _____
Taxpayer
Address: _____ City, State, Zip: _____
Ward: _____ Assessment/Tax Bill Number: _____
Board of Review

(Attach copy of complete appeal submitted to the Board of Review)

Address or Legal Description of Property Being Appealed (Also, please identify building by place of business for convenience of appraisal)

I hereby request the review of the assessment of the above described property pursuant to L.R.S. 47:1992. I timely filed my reports (if personal property) as required by law, and I have reviewed my assessment with my assessor.

The assessor has determined Fair Market Value of this property at:

Land \$ _____ Improvement \$ _____ Personal Property* \$ _____
Total \$ _____

I am requesting that the Fair Market Value of this property be fixed at:

Land \$ _____ Improvement \$ _____ Personal Property* \$ _____
Total \$ _____

* If you are not appealing personal property, leave this section blank.

I understand that property is assessed at a percentage of fair market value which means the price for the property which would be agreed upon between a willing and informed buyer and a willing and informed seller under usual and ordinary circumstances, the highest price the property would bring on the open market if exposed for sale for a reasonable time. I understand that I must provide the Board of Review with evidence of fair market value to support my claim.

Please notify me of the date, place and time of my appeal at the address shown below.

NOTE: If appellant disputes Board of Review's decision, appellant may appeal to La. Tax Commission by completing and submitting Appeal Form 3103.A to LTC within 10 days of postal date of BOR's written determination. For further information, call LTC at (225) 925-7830.

Appellant _____
Address: _____
Telephone No. _____

AUTHORITY NOTE: Promulgated in accordance with LSA-Constitution of 1974, Article VII, §18, R.S. 47:2302, R.S. 47:2303 and R.S. 47:2304.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 3:289 (June 1977), amended by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), LR 15:1097 (December 1989), LR 19:212 (February 1993), amended by the Department of Revenue, Tax Commission, LR 25:319 (February 1999), LR 26:512 (March 2000), LR 30:492 (March 2004), LR 32:435 (March 2006), LR 33:498 (March 2007), LR 34:688 (April 2008).

§3103. Appeals to the Louisiana Tax Commission

A. - B. ...

C. All filings to the Louisiana Tax Commission shall be filed with the Office of General Counsel. They shall be deemed filed only when actually received, in proper form. All filings shall be in the form of an original and seven copies on letter size paper.

1. The Office of the General Counsel shall be sent one "service copy" of all State Court, Federal Court, Appellate Court, and/or Supreme Court pleadings in which the LTC is named party in addition to Special Counsel for the LTC.

D.1. In addition to the initial filing of Forms 3103.A and 3103.B, the taxpayer or assessor appealing the Board of Review decision shall attach a pleading containing the following:

- a. name under which the property is assessed;
- b. description of the property;
- c. determination of the Board of Review;
- d. a prayer stating the type of relief, action or order desired by the pleader;
- e. a list of exhibits presented to the Board of Review;
- f. a list of witnesses who may be called, with a brief description of the anticipated testimony of the witness; and
- g. anticipated time needed to present the case; and
- h. an appraisal report using one or more of the three recognized appraisal techniques or other appropriate evidence concerning the fair market value of property.

2. All other pleadings shall be filed and served on the assessor or taxpayer at least 10 days prior to the scheduled hearing.

E. - P. ...

Q. Documents and papers offered into evidence for a hearing before the commission shall be marked as exhibits, indexed and bound. Seven copies of all exhibits shall be provided to the commission, with a copy to the opposing party 10 days prior to the scheduled appeal. Exhibits offered by a taxpayer shall be marked "Exhibit Taxpayer____" and shall be consecutively numbered. The taxpayer shall, at the time an exhibit is offered, state whether the exhibit contains information not furnished to the assessor before the end of the period for public exposure of the assessment lists. Exhibits offered by the assessor shall be marked "Exhibit Assessor____" and shall be consecutively numbered. Exhibits offered by the commission or its staff representative shall be marked "Exhibit Tax Commission____" and shall be consecutively numbered. Legal memorandum submitted by the parties will be made part of the record of proceedings before the commission, but shall not be filed as exhibits to be offered into evidence for the hearing before the commission.

R. - T. ...

U. The parties to an appeal shall be notified in writing, by certified mail, of the final decision by the commission. The taxpayer or assessor shall have 30 days from receipt of the Order to appeal to a court of competent jurisdiction.

V. - X. ...

Form 3103.A
Exhibit A
Appeal to Louisiana Tax Commission
by Taxpayer or Assessor
for Real and Personal Property

La. Tax Commission
P.O. Box 66788
Baton Rouge, LA 70896
(225) 925-7830

Name: _____ Parish/District: _____
Taxpayer

Address: _____ City, State, Zip: _____

Ward: _____ Assessment Tax Bill No.: _____ Appeal No.: _____
(Attach copy of complete appeal submitted to the Board of Review)

Address or Legal Description of Property Being Appealed. Also, please identify building by place of business for convenience of appraisal. _____

I hereby appeal the decision of the Board of Review on the assessment of the above described property pursuant to L.R.S. 47:1992. I timely filed my appeal as required by law.

The original Fair Market Value by the assessor was:

Land \$ _____ Improvement \$ _____

Personal Property \$ _____ Total \$ _____

The proposed Fair Market Value by the taxpayer was (at the Board of Review):

Land \$ _____ Improvement \$ _____

Personal Property \$ _____ Total \$ _____

The Fair Market Value determined by the Board of Review was:

Land \$ _____ Improvement \$ _____

Personal Property \$ _____ Total \$ _____

* If you are not appealing personal property leave this section blank.

I understand that property is assessed at a percentage of fair market value, which means the price for the property which would be agreed upon between a willing and informed buyer and a willing and informed seller, under usual and ordinary circumstances, the highest price the property would bring on the open market, if exposed for sale for a reasonable time.

Appellant(Taxpayer/Taxpayer's Rep./Assessor)

Address: _____

Telephone No.: _____

Date of Appeal

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837, R.S. 47:1989 and R.S. 47:1992.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 4:339 (September 1978), amended by the Department of Revenue and Taxation, Tax Commission, LR 10:947 (November 1984), LR 15:1097 (December 1989), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), amended by the Department of Revenue, Tax Commission, LR 24:492 (March 1998), LR 25:319 (February 1999), LR 26:512 (March 2000), LR 28:521 (March 2002), LR 31:721 (March 2005), LR 32:436 (March 2006), LR 33:498 (March 2007), LR 34:688 (April 2008).

§3105. Practice and Procedure for Public Service Properties Hearings

A. ...

B. All filings to the Louisiana Tax Commission shall be filed with the Office of General Counsel. They shall be deemed filed only when actually received, in proper form. All filings shall be in the form of an original and seven copies on letter size paper.

1. The Office of the General Counsel shall be sent one "service copy" of all State Court, Federal Court, Appellate Court, and/or Supreme Court pleadings in which the LTC is named party in addition to Special Counsel for the LTC.

C. ...

D. Ten days prior to said hearings, the protesting taxpayer shall file a signed, pleading, specifying each respect in which the initial determination is contested, setting forth the specific basis upon which the protest is filed, together with a statement of the relief sought and seven

copies of all hearing exhibits to be presented; which shall be marked "Exhibit Taxpayer_____" and shall be consecutively numbered, indexed and bound. Legal memorandum submitted by the parties will be made part of the record of proceedings before the commission, but shall not be filed as exhibits to be offered into evidence for the hearing before the commission.

E. - R. ...

S. The parties to an appeal shall be notified in writing by certified mail of the final decision of the commission. The taxpayer shall have 30 days from receipt of the Order to appeal to a court of competent jurisdiction.

T. ...

LTC Docket No. _____
Form 3105.A
Exhibit A
Appeal to Louisiana Tax Commission
by Taxpayer La. Tax Commission
P.O. Box 66788
Baton Rouge, LA 70896
(225) 925-7830

Name: _____ Parish/District: _____
Taxpayer
Address: _____ City, State, Zip: _____
Address or Legal Description of Property Being Appealed _____

The Fair Market Value of the Public Service Section of the Louisiana Tax Commission is:
Land \$ _____ Improvement \$ _____
Personal Property* \$ _____ Total \$ _____

I am requesting that the Fair Market Value be fixed at:
Land \$ _____ Improvement \$ _____
Personal Property* \$ _____ Total \$ _____

* If you are not appealing personal property, leave this section blank.

I understand that property is assessed at a percentage of fair market value which means the price for the property which would be agreed upon between a willing and informed buyer and a willing and informed seller under usual and ordinary circumstances, the highest price the property would bring on the open market if exposed for sale for a reasonable time.

Appellant
Address: _____

Telephone No.: _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:1856.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 4:339 (September 1978), amended by the Department of Revenue and Taxation, Tax Commission, LR 10:947 (November 1984), LR 15:1097 (December 1989), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 23:209 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:493 (March 1998), LR 25:320 (February 1999), LR 26:513 (March 2000), LR 30:492 (March 2004), LR 31:723 (March 2005), LR 32:438 (March 2006), LR 33:499 (March 2007), LR 34:689 (April 2008).

§3106. Practice and Procedure for the Appeal of Bank Assessments

A.

B. All filings to the Louisiana Tax Commission shall be filed with the Office of General Counsel. They shall be deemed filed only when actually received, in proper form. All filings shall be in the form of an original and seven copies on letter size paper.

1. The Office of the General Counsel shall be sent one "service copy" of all State Court, Federal Court, Appellate

Court, and/or Supreme Court pleadings in which the LTC is named party in addition to Special Counsel for the LTC.

C. ...

D. Ten days prior to said hearings, the protesting taxpayer shall file a signed, pleading, specifying each respect in which the initial determination is contested, setting forth the specific basis upon which the protest is filed, together with a statement of the relief sought and seven copies of all hearing exhibits to be presented; which shall be marked "Exhibit Taxpayer_____" and shall be consecutively numbered, indexed and bound. Legal memorandum submitted by the parties will be made part of the record of proceedings before the commission, but shall not be filed as exhibits to be offered into evidence for the hearing before the commission.

E. - R. ...

S. The parties to an appeal shall be notified in writing by certified mail of the final decision of the commission. The taxpayer shall have 30 days from receipt of the order to appeal to a court of competent jurisdiction.

T. ...

LTC Docket No. _____
Form 3106.A
Appeal to Louisiana Tax Commission
by Taxpayer
for Bank Stock Assessments LA Tax Commission
P.O. Box 66788
Baton Rouge, LA 70896
(225) 925-7830

Name: _____ Parish/District: _____
Taxpayer
Address: _____ City, State, Zip: _____
Address or Legal Description of Property Being Appealed _____

The Fair Market Value of the Administrative Section of the Louisiana Tax Commission is:

\$ _____

I am requesting that the Fair Market Value be fixed at:

\$ _____

Appellant:
Address: _____

Telephone No.: _____
Date: _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Commission, LR 33:499 (March 2007), LR 34:690 (April 2008).

§3107. Practice and Procedure for the Appeal of Insurance Credit Assessments

A. ...

B. All filings to the Louisiana Tax Commission shall be filed with the Office of General Counsel. They shall be deemed filed only when actually received, in proper form. All filings shall be in the form of an original and seven copies on letter size paper.

1. The Office of the General Counsel shall be sent one "service copy" of all State Court, Federal Court, Appellate Court and/or Supreme Court pleadings in which the LTC is named party in addition to Special Counsel for the LTC.

C. ...

D. Ten days prior to said hearings, the protesting taxpayer shall file a signed, pleading, specifying each

respect in which the initial determination is contested, setting forth the specific basis upon which the protest is filed, together with a statement of the relief sought and seven copies of all hearing exhibits to be presented; which shall be marked "Exhibit Taxpayer_____" and shall be consecutively numbered, indexed and bound. Legal memorandum submitted by the parties will be made part of the record of proceedings before the commission, but shall not be filed as exhibits to be offered into evidence for the hearing before the commission.

E. - R. ...

S. The parties to an appeal shall be notified in writing by certified mail of the final decision of the commission. The taxpayer shall have 30 days from receipt of the order to appeal to a court of competent jurisdiction.

T. ...

	LTC Docket No. _____
Form 3107.A	LA Tax Commission
Appeal To Louisiana Tax Commission	P.O. Box 66788
by Taxpayer	Baton Rouge, LA 70896
for Insurance Assessments	(225) 925-7830

Name: _____ Parish/District: _____
Taxpayer

Address: _____ City, State, Zip: _____
Address or Legal Description of Property Being Appealed _____

The Fair Market Value of the Administrative Section of the Louisiana Tax Commission is:
\$ _____

I am requesting that the Fair Market Value be fixed at:
\$ _____

Appellant: _____
Address: _____

Telephone No.: _____
Date: _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Commission, LR 33:501 (March 2007), LR 34:690 (April 2008).

Chapter 35. Miscellaneous

§3503. Homestead Exemptions

The text of this Section has been moved to §101.F. - F.3.h.

§3515. General Rule

A. - E. ...

F. All Tulane University property tax bills and related correspondence shall be sent to:

Tulane University
Attention: Director of Real Estate
800 East Commerce Road, Suite 201
Harahan, LA 70123-3452

G. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:1856.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Commission, LR 31:725 (March 2005), amended LR 33:503 (March 2007), LR 34:691 (April 2008).

Pete Peters
Chairman

0804#025

RULE

**Department of Social Services
Office of Family Support**

Child Care Assistance Program—Provider
Registration/Certification Requirements and
Annual Revision of Sliding Fee Scale
(LAC 67:III.5103, 5107 and 5109)

In accordance with R.S.49: 950 et seq., the Administrative Procedure Act, the Department of Social Services, Office of Family Support, amended the Louisiana Administrative Code 67:III, Subpart 12 Chapter 51, Subpart A §5103 and Subpart B §5107 and §5109. This amendment is pursuant to the authority granted to the Department by the Child Care and Development Fund (CCDF).

Section 5103 has been amended to exclude earnings received from the Corporation for National and Community Service (CNCS), from college work study, and from disaster-related employment.

Section 5107 has been amended to require Family Child Day Care Home (FCDCH) providers to complete registration requirements as provided in R.S. 46:1441 et seq., in addition to DSS registration requirements in order to be eligible for participation in CCAP; to require qualified FCDCH providers who are related to a child in care and In-Home child care providers to obtain training specifically in Infant/Child/Adult CPR; to require FCDCH and In-Home child care providers to obtain training specifically in pediatric first aid; to require qualified FCDCH providers who are related to a child in care to submit to a criminal background check(s) on all adults living at the provider's residence or employed by the provider and working in the provider's home or on the provider's home property, including the provider; to require FCDCH providers who do not have a telephone in their residence and In-Home providers caring for children in a residence in which there is no telephone to possess a working telephone capable of incoming and outgoing calls that is accessible at all times in the residence in which care is being provided; and to comply with state law so that an individual will no longer be able to be a CCAP provider if a required criminal background check is not clear, even if approved in writing by a district judge of the parish and the local district attorney.

Section 5109 has been amended to provide for revising the sliding fee scale for non-FITAP recipients annually, to the extent that funds are available, based on the state median income and poverty level.

Section 5107.F of this Rule was effected November 30, 2007, by a Declaration of Emergency published in the December 2007 issue of the *Louisiana Register*.

Title 67
SOCIAL SERVICES
Part III. Family Support
Subpart 12. Child Care Assistance
Chapter 51. Child Care Assistance Program
Subchapter A. Administration, Conditions of Eligibility,
and Funding

§5103. Conditions of Eligibility

A. - B.4.e. ...

5. Household income does not exceed 75 percent of the state median income for a household of the same size. Income is defined as:

a. the gross earnings of the head of household, that person's legal spouse, or non-legal spouse and any minor unmarried parent who is not legally emancipated and whose children are in need of child care assistance, with the exception of income from:

- i. Corporation for National and Community Service (CNCS);
- ii. College work study; and
- iii. disaster-related employment.

B.5.b. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L.104-193, Act 58 2003 Reg. Session, ACF Guidance: ACYF-IM-CC-05-03.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:356 (February 1998), amended LR 25:2444 (December 1999), LR 26:2827 (December 2000), LR 27:1932 (November 2001), LR 28:1490 (June 2002), LR 29:43 (January 2003), LR 29:1106 (July 2003), LR 29:1833 (September 2003), LR 30:496 (March 2004), LR 30:1487 (July 2004), LR 31:101 (January 2005), LR 31:2263 (September 2005), LR 32:1464 (August 2006), LR 33:506 (March 2007), LR 34:692 (April 2008).

Subchapter B. Child Care Providers

§5107. Child Care Provider

A. - B. ...

C. An FCDCH provider must be registered and active in the CCAP Provider Directory before payments can be made to that provider.

1. To be eligible for participation, in CCAP, an FCDCH provider must complete registration requirements as provided in R.S. 46:1441 et seq., complete and sign an FCDCH provider agreement, complete a CCAP application for registration and Form W-9, pay appropriate fees, furnish verification of Social Security number and residential address, provide proof that he/she is at least 18 years of age, and meet all registration requirements, including:

a. certification that they, nor any person employed in their home or on their home property, have never been the subject of a validated complaint of child abuse or neglect, or have never been convicted of, or pled no contest to, a crime listed in R.S. 15:587.1.(C);

b. submission of verification of current certification in infant/child/adult Cardiopulmonary Resuscitation (CPR) if the provider is a relative of a child in care;

c. submission of verification of current certification in pediatric first aid;

d. submission to criminal background check(s) on all adults living at the provider's residence or employed by the provider and working in the provider's home or on the provider's home property, including the provider; each of which must be received from State Police indicating no

enumerated conviction if the provider is a relative of a child in care;

e. effective March 1, 2002, submission of verification of 12 clock hours of training in job-related subject areas approved by the Department of Social Services annually;

f. retainment of a statement of good health signed by a physician or his designee which must have been obtained within the past three years and be obtained every three years thereafter;

g. possession of a working telephone that can receive incoming calls and that can send outgoing calls and that is available at all times in the home in which care is being provided;

h. usage of only safe children's products and removal from the premises of any products which are declared unsafe and recalled as required by R.S.46:2701-2711. (CCAP FCDCH providers will receive periodic listings of unsafe and recalled children's products from the Consumer Protection Section of the Attorney General, Public Protection Division);

i. caring for no more than six children, including his own children and any other children living at his residence, who are under age 13 or age 13 through 17 if disabled.

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

b. submission of verification of current certification in infant/child/adult Cardiopulmonary Resuscitation (CPR) and pediatric first aid:

c. - d. ...

e. possession of or access to a working telephone that can receive incoming calls and that can send outgoing calls and that is available at all times in the home in which care is being provided.

E. - F.4. ...

5. an individual who has been the subject of a validated complaint of child abuse or neglect, or has been convicted of, or pled no contest to, a crime listed in R.S. 15:587.1(C);

6. an FCDCH provider who resides with or employs a person in their home or on their home property who has been the subject of a validated complaint of child abuse or neglect, or has been convicted of, or pled no contest to, a crime listed in R.S. 15:587.1.C;

F.7. - I.2.b. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L. 104-193, Act 152, 2002 First Extraordinary Session, Act 13, 2002 Reg. Session, Act 58, 2003 Reg. Session, ACF Guidance: ACYF-IM-CC-05-03.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:357 (February 1998), amended LR 25:2444 (December 1999), LR 26:2827 (December 2000), LR 27:1932 (November 2001), LR 28:349 (February 2002), LR 28:1491 (June 2002), LR 29:43 (January 2003), LR 29:189 (February 2003), LR 30:496 (March 2004), LR 30:1484, 1487 (July 2004), LR 31:102 (January 2005), LR 31:2263 (September 2005), LR 32:1465 (August 2006), LR:32:2097 (November 2006), LR 33:507 (March 2007), LR 34:692 (April 2008).

§5109. Payment

A. The sliding fee scale used for non-FITAP recipients will be revised based on the state median income and federal poverty levels, on an annual basis to the extent that funds are available. A non-FITAP household shall pay a portion of its

child care costs monthly in accordance with the sliding fee scale, and this shall be referred to as a "co-payment." The sliding fee scale is based on a percentage of the state median income.

B. - F. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and P.L. 104-193, ACF Guidance: ACYF-IM-CC-05-03.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:357 (February 1998), amended LR 25:2445 (December 1999), LR 26:2828 (December 2000), LR 27:1933 (November 2001), LR 28:1491 (June 2002), LR 29:1834 (September 2003), LR 30:1485 (July 2004), repromulgated LR 30:2078 (September 2004), amended LR 31:2265 (September 2005), LR 32:1465 (August 2006), LR 32:2097 (November 2006), LR 33:507 (March 2007), LR 34:692 (April 2008).

Anne Silverberg Williamson
Secretary

0804#048

RULE

Department of Social Services Office of Family Support

TANF—Language Clarifications (LAC 67:III.Chapter 55)

In accordance with R.S.49:950 et seq., the Administrative Procedure Act, the Department of Social Services, Office of Family Support, adopted revisions to LAC 67:III:Subpart 15, Chapter 55 Temporary Assistance for Needy Families (TANF) Initiatives.

Pursuant to Act 18 of the 2007 Regular Session of the Louisiana Legislature, the agency adopted revisions to Chapter 55 TANF Initiatives. The purpose of the modifications is to align the Louisiana Administrative Code with Louisiana's TANF State Plan to assure that the agency is in compliance with both federal and state regulations. Changes include the addition of a definition of family for each TANF Initiative, the addition of TANF goal numbers, and the addition of language needed to clarify existing descriptions of TANF Initiatives. Sections 5507, 5521, 5523, 5535, 5565, and 5585 are being repealed because they are no longer funded TANF Initiatives. The additions and exclusions do not change the services provided to participants.

This Rule was effected January 1, 2008, by a Declaration of Emergency published in the January 2008 issue of the Louisiana Register.

Title 67

SOCIAL SERVICES

Part III. Family Support

Subpart 15. Temporary Assistance for Needy Families (TANF) Initiatives

Chapter 55. TANF Initiatives

§5505. Nonpublic School Early Childhood Development Program

A. ...

B. These services meet TANF goal 3, to prevent and reduce the incidence of out-of-wedlock pregnancies and TANF goal 4, to encourage the formation and maintenance

of two-parent families by placing children in learning environments at the pre-school level to foster an interest in learning, increase literacy levels, and increase the likelihood of developing responsible behavior.

C. Eligibility for services is limited to families in which the child is one year younger than the eligible age for public school kindergarten and who have earned income at or below 200 percent of poverty level. A needy family consists of minor children residing with custodial parents, or caretaker relatives of minor children.

D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:350 (February 2002), amended LR 29:715 (May 2003), LR 30:501 (March 2004), LR 34:693 (April 2008).

§5507. Adult Education, Basic Skills Training, Job Skills Training, and Retention Services Program

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session; Act 14, 2003 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:870 (April 2002), amended LR 29:44 (January 2003), LR 30:501 (March 2004), repealed LR 34:693 (April 2008).

§5509. Domestic Violence Services

A. ...

B. These services meet TANF goal 4, to encourage the formation and maintenance of two-parent families.

C. Eligibility for services is not limited to needy families. Eligibility for services is limited to children and/or their parents or caretaker relatives who are victims of domestic violence. A family consists of a minor child residing with a custodial parent or caretaker relative of the minor child, and non-custodial parents.

D. - E. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; HB 1 2006 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 32:2099 (November 2006), amended LR 33:2205 (October 2007), LR 34:693 (April 2008).

§5511. Micro-Enterprise Development Program

A. ...

B. These services meet TANF goal 2, to end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage. This goal will be accomplished by providing assistance to low-income families through the development of comprehensive micro-enterprise development opportunities as a strategy for moving parents into self-sufficiency.

C. Eligibility for services is limited to needy families, that is, a family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamps, Child Care Assistance Program (CCAP) benefits, Medicaid, Louisiana Children's Health Insurance Program (LaCHIP), Supplemental Security Income (SSI), Free or Reduced School Lunch, or who has earned income at or below 200 percent of the federal poverty level. A family

consists of a minor child residing with custodial parents or caretaker relatives. Only the parent or caretaker relative within the needy family is eligible to participate.

D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 16, 2005 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, amended LR 32:1914 (October 2006), LR 34:693 (April 2008).

§5521. Women and Children's Residential Prevention and Treatment Program

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session, Act 13, 2002 Reg. Session Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:352 (February 2002), LR 29:373 (March 2003), repealed LR 34:694 (April 2008).

§5523. Early Childhood Development Program

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:352 (February 2002), repealed LR 34:694 (April 2008).

§5531. After-School Tutorial and Summer Enrichment Programs

A. ...

B. These services meet TANF goal 3, to prevent and reduce the incidence of out-of-wedlock pregnancies by providing intervention and improved life prospects for students who show evidence of academic underperformance, dropping out, or engaging in negative behaviors that can lead to dependency and out-of-wedlock pregnancies, imprisonment, etc.

C. Eligibility for services is not limited to needy families. A family consists of a minor child residing with a custodial parent or caretaker relative of the minor child, and non-custodial parents.

D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 36:474 and 46:231; Act 12, 2001 Reg. Session, and Act 13, 2002 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:352 (February 2002), amended LR 28:2373 (November 2002), LR 34:694 (April 2008).

§5535. Fatherhood

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 36:474 and 46:231; Acts 12 and 639, 2001 Reg. Session Act 18, 2007 Reg. Session..

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:353 (February 2002), repealed LR 34:694 (April 2008).

§5539. Truancy Assessment and Service Centers

A. Effective October 1, 2005, OFS shall enter into Memoranda of Understanding or contracts for Truancy Assessment and Service Centers designed to identify, assess, and provide counseling to children in kindergarten through sixth grade and family members to assure regular school attendance and improved academic and behavioral outcomes.

B. These services meet TANF goal 3, to prevent and reduce the incidence of out-of-wedlock pregnancies by providing counseling to children and family members designed to assure regular school attendance and improved academic and behavioral outcomes.

C. Eligibility for services is not limited to needy families. A family consists of a minor child residing with a custodial parent or caretaker relative of the minor child, and non-custodial parents.

D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 16, 2005 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 32:264 (February 2006), amended LR 34:694 (April 2008).

§5541. Court-Appointed Special Advocates

A. OFS shall enter into Memoranda of Understanding with the Supreme Court of Louisiana to provide services to needy children identified as abused or neglected who are at risk of being placed in foster care or, are already in foster care. Community advocates provide information gathering and reporting, determination of and advocacy for the children's best interests, and case monitoring to provide for the safe and stable maintenance of the children or return to their own home.

B. The services meet TANF goal 1, to provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives by ensuring that the time children spend in foster care is minimized.

C. Eligibility for services is limited to needy families, that is, one in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamp benefits, Child Care Assistance Program (CCAP) services, Title IV-E, Medicaid, Louisiana Children's Health Insurance Program (LaCHIP) benefits, Supplemental Security Income (SSI), Free or Reduced School Lunch, or who has earned income at or below 200 percent of the federal poverty level. A family consists of minor children residing with custodial parents, or caretaker relatives of minor children.

D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session; Act 1, 2004 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:871 (April 2002), amended LR 31:485 (February 2005), LR 34:694 (April 2008).

§5543. Drug Courts Program

A. OFS shall enter into a Memorandum of Understanding with the Supreme Court of Louisiana to provide services to drug court clients that may include non-medical treatment, assessment, counseling, education, and training. Eligible services shall not include drug court administrative costs.

B. These services meet TANF goal 3, to prevent and reduce the incidence of out-of-wedlock pregnancies and TANF goal 4, to encourage the formation and maintenance of two-parent families by providing assessment, counseling, education, training, non-medical treatment, etc.

C. Eligibility for services is limited to children and to the parents or caretaker relatives of minor children. A family

consists of a minor child residing with a custodial parent or caretaker relative of the minor child, and non-custodial parents.

D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:353 (February 2002), amended LR 34:694 (April 2008).

§5545. Remediation and Tutoring Programs

A. OFS shall enter into a Memorandum of Understanding with the Department of Education to establish programs designed to increase the likelihood of a student scoring above the "unsatisfactory" achievement level on the Graduate Exit Exam and the LEAP 21 exam and include:

1. - 3. ...

B. These services meet TANF goal 3, to prevent and reduce the incidence of out-of-wedlock pregnancies by encouraging youths to remain in school, reducing their risk of engaging in negative behavior and increasing opportunities for families to become self-sufficient through education and training.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:353 (February 2002), amended LR 31:485 (February 2005), LR 34:695 (April 2008).

§5549. OCS Child Welfare Programs

A. OFS shall enter into a Memorandum of Understanding with the Office of Community Services (OCS), the state child welfare agency, for collaboration in identifying and serving children in needy families who are at risk of abuse or neglect. The methods of collaboration include:

1. *Child Protection Investigation (CPI)*—comprises services to assess the validity of a report of child abuse or neglect involving a minor child or children residing with a custodial parent, an adult caretaker relative, or a legal guardian, to determine whether an emergency exists, and when deemed necessary, to develop a safety plan which may include coordination of services, emergency removal and placement, referral to OCS Family Services or another appropriate agency, short term counseling, parenting guidance, and/or arrangements for concrete services, such as the Preventive Assistance Fund (PAF) and Reunification Assistance Fund (RAF).

2. ...

B. These services meet TANF goal 1, to provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives.

C. - D. ...

E. Direct services that may be provided in response to an episode of need or a specific crisis situation and are non-recurrent, such as but not limited to food, clothing, and shelter assistance, will not be provided beyond four months.

AUTHORITY NOTE: Promulgated in accordance with 42 USC 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 16, 2005 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR:2374 (November 2002), amended LR 31:486 (February 2005), LR 32:2099 (November 2006), LR 34:695 (April 2008).

§5551. Community Response Initiatives

A. The Office of Family Support, may enter into Memoranda of Understanding or contracts to develop innovative and strategic programming solutions suited to the unique needs of Louisiana's communities.

B. The services provided by the various partners must meet one, or a combination of, the four TANF goals:

1. Goal 1: to provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives;

2. Goal 2: to end dependence of needy parents on government benefits by promoting job preparation, work, and marriage;

3. Goal 3: to prevent and reduce the incidence of out-of-wedlock pregnancies; and

4. Goal 4: to encourage the formation and maintenance of two-parent families.

C. Eligibility for those services meeting TANF goals 1 and 2 is limited to needy families, that is, a family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamp benefits, Child Care Assistance Program (CCAP) services, Title IV-E, Medicaid, Louisiana Children's Health Insurance Program (LaChip) benefits, Supplemental Security Income (SSI), Free or Reduced Lunch, or who has earned income at or below 200 percent of the federal poverty level. For TANF goals 1 and 2 a family consists of minor children residing with custodial parents, or caretaker relatives of minor children.

D. Eligibility for those services meeting TANF goals 3 and 4 may include any family in need of the provided services regardless of income. For TANF goals 3 and 4 a family consists of a minor child residing with a custodial parent or caretaker relative of the minor child, and non-custodial parents, and legal guardians.

E. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 13, 2002 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:2374 (November 2002), amended LR 34:695 (April 2008).

§5555. Individual Development Account Program

A. OFS shall establish the Individual Development Account (IDA) Program to provide asset and savings opportunities to low-income families for specific purposes as well as provide financial management education. The agency will contract to develop and administer the IDA Program for low-income families.

B. - D. ...

* * *

E. These services meet TANF goal 1, to provide assistance to needy families so that children may be cared for in their own homes or in homes of relatives. A family consists of minor children living with custodial parents or caretaker relatives of minor children.

F. - G. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 36:474 and 46:231; Act 1098, 2001 Reg.

Session; Act 84, 2002 First Extraordinary Session; Act 13, Reg. Session; HB 1, 2006 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 29:45 (January 2003), amended LR: 32.2099 (November 2006), LR 34:695 (April 2008).

§5559. Early Childhood Supports and Services Program

A. The Office of Family Support, shall enter into a Memoranda of Understanding or contracts to create programs to identify and provide supports and services to young children, ages 0 - 5, and their families who are at risk of developing cognitive, behavioral, and relationship difficulties. Services may include but are not limited to:

1. - 12. ...

B. Services offered by providers meet one or more of the following TANF goals:

1. Goal 1: to provide assistance to needy families so that children may be cared for in their own homes or in the home of a relative;

2. Goal 2: to end dependence of needy parents on government benefits by promoting job preparation, work, and marriage;

3. Goal 3: to prevent and reduce the incidence of out-of-wedlock pregnancies; and

4. Goal 4: to encourage the formation and maintenance of two-parent families.

C. Eligibility for services is limited to at-risk families that include a child age 0-5 years, and who have earned income at or below 200 percent of the federal poverty level. A family consists of a minor child residing with a custodial parent or caretaker relative of the minor child, and non-custodial parents.

D. ...

E. Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 13, 2002 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 29:44 (January 2003), amended LR 34:696 (April 2008).

§5561. Early Childhood Education and Parenting Services Programs

A. The Office of Family Support, shall enter into Memoranda of Understanding or contracts to create quality, early childhood education and parenting services programs at various sites, such as schools, Head Start and Early Head Start Centers, churches, Class A Day Care Centers, and Family Child Day Care Homes to provide children with age-appropriate services during the school year, school holidays, summer months and before-and-after school and to provide parents, legal guardians, or caretaker relatives of children with parenting and adult/family educational services. The development of public education materials and training for parents, providers, professionals, and interested parties to educate and promote the services offered by this program and to encourage participation in the programs as well as the Child Care Assistance Program may be included in the contracts or be entered into as specific contracts promote applications for CCAP; assist providers; encourage eligible families to apply for services offered through OFS; and educate parents and others who have an interest in children

and families about criteria of quality child care and the needs of young children.

B. Services offered by providers meet TANF goal 3, to prevent and reduce the incidence of out-of-wedlock pregnancies by providing supervised, safe environments for children thus limiting the opportunities for engaging in risky behaviors, and TANF goal 4, to encourage the formation and maintenance of two-parent families by providing educational services to parents or other caretakers to increase their own literacy level and effectiveness as a caregiver, and to foster positive interaction with their children.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 13, 2002 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 29:190 (February 2003), amended LR 31:486 (February 2005), LR 34:696 (April 2008).

§5563. Substance Abuse Treatment Program for Needy Families

A. ...

B. These services meet TANF goal 2, to end the dependence of needy parents on government benefits by providing needy families with substance abuse treatment so that they may become self-sufficient in order to promote job preparation, work, and marriage.

C. Eligibility for services is limited to needy families, that is, a family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamp benefits, Child Care Assistance Program (CCAP) services, Medicaid, Louisiana Children's Health Insurance Program (LaChip) benefits, Supplemental Security Income (SSI), Free or Reduced Lunch, or who has earned income at or below 200 percent of the federal poverty level. A needy family includes a minor child living with a custodial parent or caretaker relative who has earned income at or below 200 percent of the federal poverty level.

D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 13, 2002 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 29:190 (February 2003), amended LR 31:486 (February 2005), LR 34:696 (April 2008).

§5565. Family Strengthening and Healthy Marriages

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 13, 2002 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 29:191 (February 2003), repealed LR 34:696 (April 2008).

§5569. Alternatives to Abortion

A. Effective June 1, 2006, the Office of Family Support shall enter into contracts to provide intervention services including crisis intervention, counseling, mentoring, support services, and pre-natal care information, in addition to information and referrals regarding healthy childbirth, adoption, and parenting to help ensure healthy and full-term pregnancies as an alternative to abortion.

B. These services meet TANF goal 1, to provide assistance to needy families so children may be cared for in their own homes or in the homes of relatives and TANF goal 4, to encourage the formation and maintenance of two-parent families by providing pregnancy and parenting support to low-income women, their male partners, and families who are experiencing an unplanned pregnancy.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 16, 2005 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 32:2099 (November 2006), amended LR 34:696 (April 2008).

§5571. Parenting/Fatherhood Services Program

A. The Office of Family Support shall enter into contracts to create programs that will assist low-income fathers with various skills including employment, life, parenting, and other skills in order to increase their ability to provide emotional and financial support for their children, and to create a network of community- and faith-based programs that will provide linkages to and for state entities, specifically Child Support Enforcement Services.

B. These services meet TANF goal 2, to end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage, and TANF goal 4, to encourage the formation and maintenance of two-parent families by eliminating emotional, social, financial, and legal barriers that hinder a father's ability to be fully engaged in his children's lives.

C. Eligibility for services is limited to fathers of minor children, who have earned income at or below 200 percent of the federal poverty level.

D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 13, 2002 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 29:191 (February 2003), amended LR 34:697 (April 2008).

§5573. Community Supervision Program (CSP)

A. OFS shall enter into a Memorandum of Understanding (MOU) with the Department of Public Safety and Corrections-Youth Services, Office of Youth Development (DPSC-YS/OYD), to provide services to youth and their families as a result of an adjudication and disposition by a court that orders DPSC-YS/OYD to supervise youth in their communities in an effort to prevent removal from the home.

B. - B.4. ...

C. These services meet TANF goal 1, to provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives by providing services to youth, who are in jeopardy of removal from their homes, and their families.

D. Financial eligibility for those services attributable to TANF/Maintenance of Effort (MOE) funds is limited to eligible families, which include a minor child living with a custodial parent or an adult caretaker relative. An eligible family is one in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamp benefits, Child Care Assistance Program (CCAP)

services, Title XIX (Medicaid) Medical Assistance Program benefits, Louisiana Children's Health Insurance Program (LaCHIP) benefits, or Supplemental Security Income (SSI).

E. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474, amended Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 29:2511 (November 2003), amended LR 31:487 (February 2005), LR 34:697 (April 2008).

§5575. Teen Pregnancy Prevention Program

A. Effective July 1, 2003, the Office of Family Support shall enter into Memoranda of Understanding or contracts to prevent or reduce out-of-wedlock and teen pregnancies by enrolling youth ages 8 through 20 in supervised, safe environments, with adults leading activities according to a research-based model aimed at reducing teen pregnancy.

B. Services offered by providers meet TANF goal 3, to prevent and reduce the incidence of out-of-wedlock pregnancies by providing research-based prevention and intervention programming for students who live in poor communities and/or show evidence of academic underperformance, dropping out, or engaging in negative behaviors that can lead to dependency, out-of-wedlock births, or imprisonment.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 14, 2003 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:502 (March 2004), amended LR 34:697 (April 2008).

§5581. Earned Income Tax Credit (EITC) Program

A. ...

B. These services meet TANF goal 2, effective November 1, 2006, to end dependence of needy parents on government benefits by promoting job preparation, work, and marriage.

C. Effective November 1, 2006, eligibility for services is limited to those families with minor children who meet the Internal Revenue Service's EITC income eligibility standards. A family consists of minor children residing with custodial parents or caretaker relatives of minor children.

D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 1, 2004 Reg. Session, Act 16, 2005 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 31:1610 (July 2005), amended LR 33:675 (April 2007), LR 34:697 (April 2008).

§5583. Temporary Emergency Disaster Assistance Program

A. - A.2. ...

B. These services meet TANF goal 2, to end dependence of needy parents on government benefits by promoting job preparation, work and marriage and TANF goal 4, to encourage the formation and maintenance of two-parent families.

C. - F. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 16, 2005 Reg. Session, P.L. 109-168 TANF Emergency Response and Recovery Act of 2005, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 32:1617 (September 2006), amended LR 33:2205 (October 2007), LR 34:697 (April 2008).

§5585. Third Party In-Kind Contributions as TANF MOE

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 16, 2005 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 32:1914 (October 2006), repromulgated LR 32:2100 (November 2006), repealed LR 34:698 (April 2008).

§5587. Children's Defense Fund Freedom Schools

A. ...

B. These services meet TANF goal 3, to prevent and reduce the incidence of out-of-wedlock pregnancies by providing improved life prospects for students who show evidence of failing, dropping out or engaging in negative behaviors that can lead to out-of-wedlock births.

C. ...

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; HB 1 2006 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 32:2099 (November 2006), amended LR 34:698 (April 2008).

§5589. Homeless Initiative

A. ...

B. These services meet TANF goal 1, to provide assistance to needy families so children may be cared for in their own homes or in the homes of relatives by providing educational and employment opportunities to increase the literacy level and effectiveness of a caregiver.

C. Eligibility for services is limited to needy families, that is, a family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamp benefits, Child Care Assistance Program (CCAP) services, Title IV-E, Medicaid, Louisiana Children's Health Insurance Program (LaChip) benefits, Supplemental Security Income (SSI), Free or Reduced Lunch, or who has earned income at or below 200 percent of the federal poverty level. A needy family consists of minor children, custodial parents, or caretaker relatives of minor children.

D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 17, 2006 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 33:674 (April 2007), amended LR 33:2205 (October 2007), LR 34:698 (April 2008).

§5591. Jobs for America's Graduates Louisiana (JAGS-LA) Program

A. Effective July 1, 2007, the Office of Family Support shall enter into a Memorandum of Understanding with the Department of Education for the Jobs for America's Graduates Louisiana (JAGS-LA) Program to help keep in school those students at risk of failing in school, to capture out-of-school youth in need of a high school education, to provide an avenue for achieving academically, and to assist students in ultimately earning recognized credentials that

will make it possible for them to exit school and enter post-secondary education and/or the workforce.

B. These services meet the TANF goal 3, to prevent and reduce the incidence of out-of-wedlock pregnancies by providing intervention and improved life prospects for students who show evidence of failing, dropping out or engaging in negative behaviors that can lead to dependency, out-of-wedlock births, imprisonment, etc.

C. Eligibility for services is not limited to needy families, however, eligible participants in the JAGS-LA Program shall be 15 - 21 years of age and must face at least two designated barriers to success that include economic, academic, personal, environmental, or work related barriers. A family consists of a minor child residing with a custodial parent or caretaker relative of the minor child, and non-custodial parents.

D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 USC 601 et seq.; R.S. 46:231 and R.S. 36:474; House Bill 1, 2007 Reg. Session Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 33:2468 (November 2007), amended LR 34:698 (April 2008).

Ann Silverberg Williamson
Secretary

0804#047

RULE

**Department of State
Elections Division**

**Procurement of Voting System Drayage and Storage
(LAC 31:III.Chapter 1)**

Under the authority of R.S. 18:19, R.S. 18:1371, R.S. 36:742, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Louisiana Procurement Code, R.S. 39:1551 et seq., the Secretary of State hereby adopts uniform rules, regulations, forms, and instructions as to the procurement of voting system drayage and warehouse storage.

**Title 31
ELECTIONS**

Part III. Procurement

**Chapter 1. Procurement of Voting System Drayage
and Storage**

§101. Definition

Drayage—the transporting or cartage of voting equipment and supplies as directed by the Secretary of State.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:1371 and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 34:698 (April 2008).

§103. Revised Statutes

A. These regulations shall be read and interpreted jointly with R.S. 39:1551 et seq.

B. A rule or regulation shall not change any explicit contract provision, commitment, right or obligation of the state, or of a contractor under a state contract in existence on the effective date of that rule or regulation. However, to the extent possible, existing contracts shall be constructed in conformity with these rules and regulations.

C. The bid process for the storage of voting systems shall be performed by the Division of Administration, Office of Facility Planning and Control, except that the Department of State may negotiate for storage space of less than 5,000 square feet in accordance with the provisions of R.S. 18:19.

D. The Office of Facility Planning and Control shall prepare the lease between the department and lessor, and the purchase order shall be prepared by the department for the lease of warehouse storage facilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:19, 1353, 1382, R.S. 39:1643, and R.S. 39:1551 et seq.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 34:698 (April 2008).

§105. Invitation for Drayage and Storage Bids, Public Notice, and Bid Opening

A. All contracts for the drayage and storage of voting systems shall be awarded by competitive sealed bidding on a parish or regional basis.

B. If the Secretary of State determines a bid will be awarded on a regional basis for drayage and storage, the criteria shall include but not necessarily be limited to:

1. not more than four parishes in a region;
2. not more than 1,000 voting systems in a region;
3. uniform beginning delivery time with continuous drayage for each parish in a region;
4. uniform beginning return time with continuous drayage for each parish in a region;
5. agreement will first be obtained from each clerk of court for each parish to be included in a regional bid; and
6. a cost savings when bid on a regional basis.

C. Competitive sealed bidding shall be accomplished by sending out written notices to persons known to be able to provide the department's requirements, and by advertising in accordance with R.S. 18:19 and 1371 at least 30 days prior to bid opening.

1. Written notices shall be mailed to those persons who have previously requested an invitation for bids for said parish or parishes, if regional, within the previous four years. The written notices shall be mailed to any parish governing authority included in the bid to be let.

2. The written notices and advertisements shall announce:

- a. the type of contract;
- b. the parish or region for which the contract is required;
- c. the method of acquiring an invitation for bids; and
- d. the date, time, and place of bid opening.

3. Advertisements shall be published in the official journal of the state and in the official journal of the parish or parishes, if regional, for which the contract is required. Advertisements shall be published in a newspaper of general circulation printed in such parish or parishes, if regional, or, if there is no newspaper printed in such parish or parishes, if regional, in a newspaper printed in the nearest parish that has a general circulation in the parish or parishes, if regional, covered by the contract. The department may publish notices in additional journals for maximum coverage.

4. A notice shall be sent to the parish governing authority and the clerk of court of the parish or parishes, if regional, for which the contract is required. The clerk of court shall prominently post such notice in his office.

5. Notification shall also be made available on the department's election webpage at www.GeauxVote.com.

D. The invitation for bids shall contain:

1. complete description of the transportation required;
2. all applicable terms, conditions, and other requirements;
3. types and limits of insurance required;
4. bid and performance bonding requirements; and
5. factors which will be used to determine responsibility and suitability of bidders.

E. Bids shall be publicly opened and read as specified in the invitation for bids in the presence of one or more witnesses. Bidders and the public may be present at any bid opening.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:19 and 1371, R.S. 36:742, and R.S. 39:1594.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 34:699 (April 2008).

§107. Evaluation of Drayage and Storage Bids

A. Drayage bids shall be evaluated based on adherence to the specifications, terms, conditions, and suitability requirements listed in the invitation for bids. The bidder must list any deviations from these specifications, terms, or conditions.

B. Storage bids shall be evaluated based on adherence to the detailed written response to all specifications, any submitted plans, inspection of the proposed site by the department, or an authorized representative, quality, workmanship and suitability of the proposed site for the purposes set forth in the solicitation, including but not limited to the following:

1. location of the proposed space;
2. condition of the proposed site;
3. safety of the proposed site; and
4. timeliness of the availability.

C. The bidder must list any deviations from these specifications, terms or conditions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:742 and 1594.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 34:699 (April 2008).

§109. Responsibility of Drayage and Storage Bidders

A. The Secretary of State or his designee may make reasonable inquiries to determine the responsibility of prospective contractors. In making his determination, the following factors will be considered:

1. has available the appropriate financial, material, equipment, and personnel resources and expertise, or the ability to obtain them, necessary to indicate the capability to meet all contractual requirements;
2. has a satisfactory record of performance on previous state contracts and with other persons;
3. is qualified legally to contract with the state of Louisiana;
4. has supplied an affidavit of No Felony Conviction attesting to the fact that the proposed contractor and/or the principal officers of a corporation are not currently under an order of imprisonment for any felony conviction or have not been convicted of a lesser election offense under Title 18 or an offense involving an election, voting equipment or an election official; and
5. has reasonably supplied any information requested by the Secretary of State in establishing responsibility.

B. Each bidder who is determined to be non-responsible shall be notified in writing. Such notification shall state all reasons for disqualification, and give each bidder who is proposed to be disqualified, a reasonable opportunity to refute the reasons for disqualification at an informal hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:742 and R.S. 39:1601.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 34:699 (April 2008).

§111. Correction of Withdrawal of Drayage and Storage Bids

A. Obvious errors or errors supported by clear and convincing evidence may be corrected, or bids may be withdrawn, if such correction or withdrawal does not prejudice other bidders and such actions may be taken only to the extent permitted under regulations.

1. Any bid may be withdrawn prior to bid opening.

2. Minor informalities or insignificant mistakes may be waived or corrected if such will not prejudice other bidders (i.e., if the effect on price, quantity, quality, delivery, or contractual conditions is not significant). The Secretary of State may waive any informalities or allow corrections by bidders if it is in the best interest of the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:742 and R.S. 39:1594(F).

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 34:700 (April 2008).

§113. Drayage Bid Guaranty and Bond

A. If specified in the invitation for bids, a bond, certified check, or money order payable to the Department of State in the amount of 5 percent of the bid must accompany each bid submitted.

B. If a bidder withdraws his bid after bid opening, without complying with LAC 31:III.111, or fails to execute a contract within 20 days of request, the bid bond or other security shall be forfeited and deposited into the Department of the Treasury as income not available.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:1371, R.S. 36:742, and LAC 34:I.523.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 34:700 (April 2008).

§115. Drayage Performance Bond

A. If specified in the invitation for bids, the bidder awarded the contract must submit a performance bond or letter of credit in the penal sum of one and one-half times the contract price made payable to the Department of State.

B. The performance bond shall be written by a surety or insurance company currently on the U.S. Department of the Treasury Financial Management Service list of approved bonding companies which is published annually in the *Federal Register* or by a Louisiana domiciled insurance company with at least an A-rating in the latest printing of the A.M. Best's Key Rating Guide.

C. If a contractor fails to perform in accordance with contractual obligations, the contractor forfeits the performance bond.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:742, R.S. 38:2219, and R.S. 39:1581.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 34:700 (April 2008).

§117. Forfeiture of Bonds for Drayage

A. Actions by bidders causing forfeiture of bonds as stated in §113 and §115 herein shall be cause for removal of said bidders from the department's bid list and will support a

determination of non-responsibility for the bidder(s) and its principals for a period of three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:742 and R.S. 39:1581.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 34:700 (April 2008).

§119. General Guaranty for Drayage

A. Contractor agrees:

1. to maintain all insurance required in the invitation for bids during the term of the contract;

2. to pay all taxes, permits, licenses and fees;

3. to give all notices and comply with all laws, ordinances, rules and regulations of each city and/or town in the parish in which the contractor is performing his duties, and of the state of Louisiana;

4. to protect the state from loss in case of an accident or mishandling by contractor's employees; and

5. to make available the equipment, labor, insurance, etc., for drayage of voting machines at times other than for elections. Prices of the above mentioned to be negotiated between the contractor and department or to be determined by competitive bidding in accordance with small purchase provisions of the procurement code and subsequent applicable executive orders.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:742 and R.S. 39:1581.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 34:700 (April 2008).

§121. Award of Drayage and Storage Contracts

A. All contracts shall be awarded to the lowest responsive and responsible bidder within 30 days of bid opening, unless more time is needed by the department to investigate suitability and the bidder is notified accordingly.

1. A responsive bidder means a person who has submitted a bid which conforms in all substantive respects to the invitation for bids, including the specifications set forth in the invitation.

2. The award shall be made by unconditional acceptance of a bid without alteration or correction, except as authorized in §111.

B. If a bidder who is the lowest responsive and responsible bidder declines to accept the contract, the award may be made to the next lowest bidder or the solicitation may be canceled and re-advertised if it is determined to be in the best interest of the state. Any bidder who has declined to accept the contract previously offered shall be ineligible to bid on the subsequent solicitation. A bidder who declines a contract or fails to produce an acceptable performance bond may also be debarred from future bidding.

C. If a bidder who is the lowest bidder fails to meet all criteria as a responsive and/or responsible bidder, the award may be made to the next lowest bidder who meets all criteria as a responsive and responsible bidder or the solicitation may be canceled and re-advertised if it is determined to be in the best interest of the state.

D. In the case of "tie bids," award shall be made in a manner that will discourage future "tie bids." A written justification for the determination of award must be made by the Secretary of State.

E. In-state bidders shall be preferred to out-of-state bidders on a reciprocal basis when there is a tie bid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:742, R.S. 39:1594 and 1595.1.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 34:700 (April 2008).

§123. Rejection of Drayage or Storage Bids; Cancellation of Drayage or Storage Solicitations

A. The Secretary of State reserves the right to reject any and all bids when it is in the best interest of the state of Louisiana.

1. Reasons for rejecting a bid include, but are not limited to:

- a. a determination of non-responsibility of a bidder(s); or
- b. the bid is not responsive (i.e., it did not meet specifications or comply with terms and conditions).

2. Reasons for canceling a solicitation include, but are not limited to:

- a. the department no longer requires the service;
- b. bids received exceeded budgeted funds or were determined by the department to be unreasonable;
- c. the solicitation was flawed (i.e., specifications were not complete or were ambiguous);
- d. there is reason to believe that the bids received may have been collusive; or
- e. there is inadequate competition indicated by low response to the solicitation.

B. When bids are rejected or a solicitation is canceled, written notices shall be given to the bidders, giving the reasons for the rejection or cancellation.

C. When a solicitation is canceled, where appropriate, bidders will be given the opportunity to bid on the new solicitation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:742, R.S. 39:1581 and 1599.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 34:701 (April 2008).

§125. Emergency Drayage Procurements

A. The Secretary of State or his designee may declare that an emergency situation exists when:

1. property is subject to loss or destruction as a result of an accident or natural disaster within 30 days of an election;
2. the functioning of the department will be threatened; or
3. the health and safety of any person is threatened.

B. Every effort shall be made to obtain bids from three or more bidders. Bids shall be solicited from bonded, insured draymen or lessors currently under contract with the department.

1. If time permits, written quotations shall be solicited.

2. If time does not permit, telephone quotations shall be solicited.

C. The Secretary of State shall make a written determination stating the basis for the declaration of an emergency, the procedure used prior to selecting a contractor, and the basis for awarding to a particular contractor.

D. The Secretary of State shall keep all records relating to emergency procurements at least three years after the Legislative Auditor's Office have completed their audit of the department for the fiscal year in question.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:742 and R.S. 39:1598.

HISTORICAL NOTE: Promulgated by the Department of State, Elections, LR 34:701 (April 2008).

§127. Collusive Bidding or Negotiations of Drayage or Storage Contracts

A. The attorney general shall be notified in writing whenever collusion is suspected among bidders. Such notice shall contain all known facts.

B. All documents involved in a procurement in which collusion is suspected shall be retained for three years after the Legislative Auditor's Office have completed their audit of the department for the fiscal years in question or until the attorney general notifies the department that they may be destroyed, whichever is longer. These documents shall be made available to the attorney general or his designee upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:742 and R.S. 39:1626.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 34:701 (April 2008).

§129. Drayage and Storage Specifications

A. All specifications shall be written so as to promote as much competition as possible.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:742 and R.S. 39:1581.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 34:701 (April 2008).

§131. Drayage Contract Requirements

A. A contract cannot be transferred, subcontracted, or assigned prior to execution of said contract. After execution of the contract, a contractor may assign or subcontract his obligations under the contract only with the written consent of the Secretary of State, which consent shall not be unreasonably withheld.

B. To the extent that a prospective contractor proposes to utilize subcontractors in performing the contract, the prospective prime contractor shall not be considered to be responsible unless recent performance history indicates an acceptable subcontracting system determined by the Secretary of State. All subcontractors must meet the same standards for responsibility, bonds, and insurance as the prime contractor.

C. If a bidder is the lowest responsible and responsive bidder in more than one parish, bidders will be limited to contracting for parishes with an aggregate total of not more than 1,000 voting systems or four parishes. In the event that those numbers are exceeded, the contracts will be awarded in the order in which bids were taken.

D. The term of the contract shall be one year or less with an option to renew for two additional one-year terms. All contracts shall end on December 31.

E. If the holder of multiple drayage contracts fails to perform in accordance with the provisions of any of his contracts, the Secretary of State may cancel any and all contracts with that contractor. In addition, the contractor may be suspended from future bidding.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:1371, R.S. 36:742 and R.S. 39:1581.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 34:701 (April 2008).

§133. Right to Protest Drayage or Storage Contract Award

A. All proceedings herewith shall be carried out in accordance with the Conduct of Hearing Rules set forth in LAC 34:I.Chapter 31.

B. Any bidder may protest a solicitation or an award of a contract to the Secretary of State.

C. In regard to the solicitation of a drayage or storage contract, the protest must be made in writing at least two days prior to the opening of bids.

D. In regard to the award of any contract, a written protest must be made within 14 days after the contract is awarded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:742 and R.S. 39:1671.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 34:702 (April 2008).

§135. Legal and Contractual Remedies for Drayage and Storage of Voting Systems

A. The Secretary of State or his designee is authorized to settle and resolve any protest prior to court action. If a protest is not resolved by mutual agreement, the Secretary of State or his designee shall, within 14 days, issue a decision in writing. The decision shall:

1. state the reasons for the action taken; and
2. inform the protestant of its right to administrative and judicial review as provided in Part VI of the Procurement Code.

B. Notice of decision shall be furnished immediately to the protestant and any other party intervening.

C. The decision of the Secretary of State or his designee shall be final unless:

1. the decision is fraudulent; or
2. the person has appealed to the Commissioner of Administration in accordance with R.S. 39:1683 and R.S. 39:1685.

D. If a protest is lodged as provided for in these regulations, the department shall not proceed with the solicitation or award, unless the Secretary of State declares in writing that proceeding is necessary to protect the substantial interest of the state. Upon such determination, no court shall enjoin progress under award except after notice and hearing.

E. When a protest is sustained and the protesting bidder should have been awarded the contract but is not, the bidder shall be reimbursed for reasonable costs associated with the solicitation, including bid preparation costs other than attorney's fees. Any administrative determination of such costs shall require approval of the attorney general.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:742, R.S. 39:1671, R.S. 18:1673 and R.S. 18:1685.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 34:702 (April 2008).

§137. Suspension and Debarment of Drayage or Storage Contractor

A. A bidder and its principal officers and agents may be debarred or suspended from consideration for award of contracts during an investigation for probable cause if it is in the best interests of the state.

B. The Secretary of State may suspend or debar a person for cause after notice to the bidder has been given and the

bidder has had a reasonable opportunity to respond. A bidder may be suspended if the Secretary of State determines that there is probable cause to believe that the bidder has engaged in any activity to lead to debarment.

1. The period of time for the suspension of a drayage or storage contract shall be a minimum of one complete cycle of bidding in all parishes.

2. The period of time for debarment of a drayage or storage contract shall be a minimum of two complete cycles of bidding in all parishes.

C. Causes for debarment shall be determined in accordance with R.S. 39:1672(C).

D. In addition to the provisions of R.S. 39:1672(C), the Secretary of State may debar a bidder for the following reasons:

1. the bidder has withdrawn a bid after an award, for whatever reason, more than once; or
2. the Secretary of State may declare other specific reasons for suspension or debarment which is in the best interests of the state.

E. The Secretary of State shall notify the debarred or suspended bidder in writing of the decision stating the reasons for the action taken and the amount of time of suspension or debarment. Such notification shall also inform the debarred or suspended bidder's rights to administrative and judicial review.

F. The decision of the Secretary of State or his designee shall be final unless:

1. the decision is fraudulent; or
2. the person has appealed to the commissioner of administration in accordance with R.S. 39:1684.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:742 and R.S. 39:1672.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 34:702 (April 2008).

§139. Repeal Prior Rules and Regulations

A. LAC 31:III.101, 103, 105, 107, 109, 111, 113, 115, 117, 119, 121,123,125,127, 129, 131,133, 135, 141, 143, 145 and 147 previously adopted by the Department of Elections and Registration are hereby repealed in their entirety.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 34:702 (April 2008).

Jay Dardenne
Secretary of State

0804#010

RULE

**Department of State
Elections Division**

Recognition of Political Parties (LAC 31:I.Chapter 9)

Under the authority of R.S. 18:441, R.S. 36:742, and in accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., the Secretary of State has adopted uniform rules and regulations specifying the minimum guidelines to be used in recognizing political parties in Louisiana.

**Title 31
ELECTIONS**

Part I. Election Process

Chapter 9. Recognition of Political Parties

§901. Purpose

A. The purpose of this Chapter is to establish minimum guidelines to be used by the Secretary of State in recognizing political parties pursuant to R.S. 18:441B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:441 and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 34:703 (April 2008).

§903. Definitions

A. For the purposes of this Rule, the following definitions shall apply.

Deceptively Similar—a political party name which deceives the general public into believing that said political party is that of another party, when in fact, the two parties are not affiliated with each other.

Identical—the same exact political party name, even though the two parties are not affiliated with each other.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:441 and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 34:703 (April 2008).

§905. Political Party Recognition Based on Registered Voters

A. A political party which seeks recognition must have at least 1,000 registered voters in the state of Louisiana who are registered as being affiliated with such political party.

B. A political party shall request a list of registered voters from the Secretary of State who are registered as being affiliated with the political party who is seeking recognition in order to verify that the political party has at least 1,000 registered voters. The Secretary of State shall date this list of registered voters.

C. This list of registered voters shall be provided by the Secretary of State's office, using the political party name given by the requestor, and shall be limited to the exact name provided. For example, a request for a list of registered voters with the "Green Party" would not include "Green," "Green Grass," "Green Labor," "Green Peace," "Greenpeace" or "Greens."

D. All of the following requirements shall be met by the political party for recognition by the Secretary of State.

1. A notarized registration statement must be filed with the Secretary of State no later than 90 days prior to the opening of the qualifying period for any election.

2. The registration statement must be accompanied by a fee in the amount of \$1,000, made payable to the Department of State only by certified, cashier's check on a state or national bank or credit union, United States postal money order, or money order issued by a state or national bank or credit union.

3. The registration statement must be accompanied by a list of registered voters provided by the Department of State pursuant to §905.B with the exact political party name, showing at least 1,000 voters and dated no less than 90 days prior to the opening of the qualifying period for any election.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:441 and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 34:703 (April 2008).

§907. Defects in a Registration Statement

A. No registration statement of a political party shall be accepted by the Secretary of State, if the Secretary of State finds any of the following defects.

1. A political party's name is identical or deceptively similar to the name of any existing national party, yet the two political parties are not affiliated based on information from the national party.

2. A political party's name is identical or deceptively similar to the name of any currently recognized political party.

3. A political party's name is deliberately misleading or fraudulent in any respect.

4. A political party's emblem is deceptively similar to an emblem or trademark of any other existing recognized political party.

5. A political party that attempts to be recognized in this state with the name "Independent" or "the Independent Party."

6. A political party's registration statement is incomplete and/or does not provide the required information. In such a case, the political party may resubmit a completed notarized registration statement without having to pay an additional registration fee. The Secretary of State must receive a resubmitted registration statement no less than 90 days prior to the opening of the qualifying for any election, for recognition to apply in that primary or general election.

B. The Secretary of State shall return the rejected registration statement, along with the registration fee, except in the case of an incomplete statement, where the political party chooses to resubmit a completed notarized registration statement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:441 and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 34:703 (April 2008).

§909. Objection to a Registration Statement

A. Any person aggrieved by the recognition of political party based on the filing of a registration statement alleged to be false, fraudulent, deceptive, substantially misleading or otherwise prohibited by law may file an objection in writing to the Secretary of State.

B. The objection must be filed within two years of the political party's registration filing.

C. The Secretary of State shall provide written notice to the recognized political party whose registration statement is objected to and include with the notice a copy of the objection and any related documentation provided with the objection. The recognized political party may file a written response to the objection with the Secretary of State within 10 days of the date of mailing of the notice by the Secretary of State.

D. The Secretary of State must determine the validity of the objection, by determining whether the political party's registration statement is defective, based on the objection, any related documentation provided with the objection and, if applicable, the response to the objection from the recognized political party.

E. If the Secretary of State determines that the objection is valid, he shall declare the political party's registration statement null and void and cancel the political party's recognition. The Secretary of State shall provide written

notice of his decision and the effective date to the political party.

F. The Secretary of State shall not return the registration fee when a political party's registration is canceled pursuant to the provisions herein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:441 and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 34:703 (April 2008).

§911. Notification

A. The Secretary of State shall provide written notice to a political party that seeks recognition that the political party's registration statement is rejected for any of the reasons set forth in §907 through §909 above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:441 and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 34:704 (April 2008).

Jay Dardenne
Secretary of State

0803008

RULE

**Department of State
Elections Division**

Registrars of Voters (LAC 31:II.Chapter 1)

Under the authority of R.S. 18:18, R.S. 18:31, R.S. 18:53, R.S. 18:55, R.S. 18:59, R.S. 36:742, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Secretary of State adopted uniform rules and regulations for the following: procedures for registrars of voters to use in the conduct of their office and the entry of data on the statewide voter registration system; adopt uniform fee schedules for the department to charge for the procurement of statewide voter registration lists; procedures for merit evaluations of unclassified employees; professional review committee; and procedures for annual expenditure report.

**Title 31
ELECTIONS**

Part II. Voter Registration

Chapter 1. Registrars of Voters

§101. ERIN Manual

A. The Department of State operates a statewide voter registration computer system for the registration of voters throughout the state, the Elections and Registration Information Network, commonly referred to as "ERIN".

B. The Secretary of State shall provide all registrars of voters with an ERIN Manual to be utilized with respect to the statewide voter registration computer system. This manual shall establish procedures with respect to all records, data, and information required for the registration of voters and the transfer of information to the department. All registrars of voters shall utilize this manual to ensure the proper registration of voters. A uniform cost for the preparation of lists of registered voters shall be included in the manual. Any updates of the manual provided by the department to the registrars of voters shall be incorporated into the manual by each registrar of voters.

C. The ERIN Manual shall be submitted to the Committee on House and Governmental Affairs and the Senate and Governmental Affairs Committee for informational purposes. Both committees shall be kept informed of any changes to the manual.

D. Copies of the ERIN Manual can be viewed at the Department of State, Elections Program, XII United Plaza Building, First Floor, 8585 Archives Avenue, Baton Rouge, LA or at each office of the registrar of voters throughout the state, or at the Office of the State Register.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:18, R.S. 18:31, and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 34:704 (April 2008).

§105. Sale of Voter Registration Lists

A. The Department of State generates voter registration lists through ERIN and establishes guidelines that shall be provided to the registrars of voters for the sale of voter registration lists to the general public.

B. Voter registration lists can either be requested through the department's website www.GeauxVote.com or through a registrar of voters' office. All lists must be paid for in advance based upon an estimate provided by either the department or registrar of voters to the client. All estimates will be signed by the client. Payment shall either be given to the department or the registrar of voters' office. If the registrar of voters' office receives the payment, the registrar shall fax a copy of the check to the department and mail the check to the department within 48 hours. Checks and money orders made payable to the Department of State are the only acceptable forms of payment.

C. The department hereby establishes the cost schedules detailed below for the sale of voter registration lists.

1. Hardcopy Lists

Number of Voters	Cost
1-2,000 voters	\$35
2,001 +	\$0.0175 x number of voters, not to exceed \$5,000
Each duplicate copy of a list costs one-half the cost of the original list.	

a. This list can be requested without districts and shall contain the following information: parish, registration number, ward, precinct, name, party, age, sex, race, last-vote-date, residence, and mailing addresses. If requested, the list will provide telephone numbers.

b. This list can be requested with districts and shall contain the same information above plus the following information: congressional, senatorial, representative, police jury/council, justice of the peace, school board, city district, district court, public service commission, board of elementary and secondary education, tax ward district, and eight special districts. If requested, the list will provide telephone numbers.

2. Mailing Labels (24 labels on a page)

Number of Voters	Cost
1-2,000 voters	\$40
2,001 +	\$0.02 x number of voters, not to exceed \$5,000
Each duplicate page of labels costs \$0.02 times the number of voters.	

a. These labels may be ordered with the following information:

- i. voter's name and mailing address only; or
- ii. voter's name, mailing address, ward and precinct.

3. CD-ROM

Number of Voters	Cost
1-2,000	\$20
2,001 +	\$0.01 x number of voters, not to exceed \$5,000
Each duplicate copy of the CD-Rom costs one-fourth the cost of the original.	

a. Data on the CD is in text format.

b. The CD-Rom shall provide the following information: parish, name, ward, precinct, party, residence and mailing addresses, sex, race, age, status, registration date, registration number, last 20 dates voted, and all district information.

c. If requested, the telephone number will be provided.

4. Electronic Mail

Number of Voters	Cost
1-2,000	\$20
2,001 +	\$0.01 x number of voters, not to exceed \$5,000

a. Data submitted through electronic mail shall be in text format.

b. The electronic mail transmittal shall provide the following information: parish, name, ward, precinct, party, residence and mailing addresses, sex, race, age, status, registration date, registration number, last 20 dates voted, and all district information.

c. If requested, the telephone number will be provided.

5. Delivery. The cost for delivery service shall be \$7.50 per list, duplicate list, set of mailing labels or CD-ROM, except for each list, set of mailing labels or CD-ROM that is picked up or mailed electronically.

6. Special Requests. The prices above apply to requests using the standard criteria. A \$100 per hour programming charge will be added for any "special request." Registrars of voters must check with the information technology section of the department prior to agreeing to a request that does not conform to the standard criteria.

D. The client shall review the list immediately upon receipt. If there is a problem with the list, the client must immediately notify the department or registrar of voters. If the client has a valid reason for seeking a new list or getting a refund, the client has seven days to return the original voter registration list to the department or registrar of voters to receive a new list or a refund. If the original list has been reproduced, no refund will be issued and a new list will be subject to the appropriate costs. If the reasoning is determined to be justifiable by the department, a new list will be provided or a refund issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:18, R.S. 18:31, and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 34:704 (April 2008).

§107. Merit Evaluation of the Registrar of Voters

A. The Secretary of State hereby designates the Director of NVRA, commonly referred to as the Director of Registration, in the Department of State to conduct the annual evaluation of each parish registrar of voters by reviewing completed forms and data submitted by the registrar of voters. The evaluation will consider the timely performance of the registrar's job responsibilities as required by Title 18 of the Louisiana Revised Statutes. Upon approval of an evaluation by the Director of Registration, this information is then submitted to Human Resources to process the pay increase. If needed, the Director of Registration may submit an evaluation to the commissioner of elections for either approval or disapproval depending upon the information submitted.

B. Annually, the secretary or his designee in conjunction with the Registrars' of Voters Association shall prepare written instructions and forms which shall be submitted to the registrars of voters no later than November 1 for their evaluations. The form shall include mandated duties required by Title 18 of the Louisiana Revised Statutes, non-mandated duties (e.g., attendance at meetings conducted by the Department of State), and extended duties (e.g., going to nursing homes and registering patients).

C. The parish registrar of voters will have until December 15 to submit his completed form with supporting documentation to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:18, R.S. 18:55, and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 34:705 (April 2008).

§109. Merit Evaluations of the Chief Deputy and Confidential Assistant

A. The parish registrar of voters shall perform the annual evaluation of the chief deputy and confidential assistant.

B. Annually, the secretary or his designee in conjunction with the Registrars' of Voters Association shall prepare written instructions and forms which shall be submitted to the registrars of voters for reviewing the chief deputy and confidential assistant's performance no later than November 1.

C. The parish registrar of voters shall be responsible for evaluating his chief deputy and confidential assistant. These evaluations shall be submitted to the department no later than December 15 of each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:18, R.S. 18:59, and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 34:705 (April 2008).

§111. Professional Review Committee

A. The Commissioner of Elections shall submit a formal notification to the Professional Review Committee of the Louisiana Registrar of Voters Association of any registrar of voters who does not perform a mandated duty as defined by the annual performance evaluation form.

B. If the department receives a written complaint or email complaint concerning a registrar which does not fall under R.S. 18:53, the department may forward the complaint to the Professional Review Committee.

C. The Professional Review Committee shall investigate the matter and submit a copy of its findings to the board of directors of the Louisiana Registrar of Voters Association no later than 90 days of receipt of a formal notification or

complaint. The board of directors shall submit a written copy of the findings and any recommended corrective action to the Commissioner of Elections, the Secretary of State and the State Board of Election Supervisors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:18 and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 34:705 (April 2008).

§113. Annual Expenditure Report to Parish Governing Authority

A. Annually, the Secretary of State shall provide each parish registrar of voters with an expenditure summary report for all expenses paid by the state on behalf of each registrar of voters. The report shall be mailed out by the department no later than January 31. This information shall be combined with expenses paid by the parish governing authority into a consolidated report. This report must be submitted annually by the registrar of voters to the parish governing authority, Secretary of State, and parish clerk of court.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:18, R.S. 36:742, and R.S. 42:283.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 34:705 (April 2008).

§115. Repeal Prior Rules and Regulations

A. LAC 31:II.101 promulgated by the Department of Elections and Registration in October of 1998 relating to ERIN (Elections and Registration Information Network) is hereby repealed in its entirety.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:18 and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 34:706 (April 2008).

Jay Dardenne
Secretary of State

0804#009

RULE

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

Promotion of Youth Fishing (LAC 76:VII.108)

The Wildlife and Fisheries Commission hereby creates a rule to allow anglers below 16 years of age to keep black bass below the minimum size limit in certain waterbodies during the Memorial Day and Labor Day weekends in 2008.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 1. Freshwater Sports and Commercial Fishing

§108. Promotion of Youth Fishing

A. Notwithstanding the provisions of LAC 76:VII.165 and 189, anglers below 16 years of age shall be allowed to possess black bass below the minimum length limit in accordance with the following provisions.

1. The areas where the length limit will be suspended are the Atchafalaya Basin, Lake Verret-Palourde Area and the Lake Fausse Point-Dauterive Area, as defined in LAC 76:VII.165 and 189, respectively.

2. The dates of the suspension shall be Memorial Day weekend, May 24-26, 2008 and Labor Day weekend, August 30-September 1, 2008.

3. The suspension shall be effective from sunrise on each opening day extending until midnight on each closing day.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:326.1.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 34:706 (April 2008).

Robert J. Barham
Secretary

0804#041

Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Forestry Office of the Commissioner

Tax Credit for Certain Milk Producers (LAC 7:XXXI.Chapter 5)

The Louisiana legislature, by Acts 2007, No. 461, §1, enacted R. S. 47:6026 relative to providing a refundable tax credit for certified milk producers. Section 2 of Act 461 provides that the provisions of the act become effective for all taxable periods beginning on or after January 1, 2007. The Louisiana Law Institute, by the powers granted to it by the Legislature, has redesignated the section as R.S. 47:6032. Act 461 provides that the Department of Agriculture and Forestry shall promulgate regulations establishing the provisions of the announced production price. R.S. 3:2(A) provides that the Commissioner of Agriculture and Forestry shall head the department and shall exercise all functions of the state relating to the promotion, protection, and advancement of agriculture and forestry, except for research and educational functions expressly allocated by the constitution or by law to other state agencies.

The legislature has made the provisions of Act 461 effective for calendar year 2007 so that Louisiana milk producers who qualify for the credit may take advantage of this tax credit for the 2007 taxable year. The Commissioner of Agriculture and Forestry, on behalf of the Department of Agriculture and Forestry, is proposing the following rules and regulations to establish the announced production price and to provide for the orderly administration of the provisions of R.S. 47:6032.

This Rule is enacted and enabled by R.S. 3:2(A) and R.S. 47:6032(B).

Title 7

AGRICULTURE AND ANIMALS

Part XXXI. Milk, Milk Products and Substitutions

Chapter 5. Tax Credit for certain Milk Producers

§501. Purpose and Effective Date

A. These regulations implement the provisions of R.S. 47:6032.

B. These regulations are effective for taxable periods beginning on or after January 1, 2007.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2(A) and R.S. 47:6032(B).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner LR 34:

§503. Definitions

Announced Production Price—the average of the production price of milk for the three years immediately preceding the calendar year for which tax credits may be given.

Certified Milk Producer—a milk producer who has been certified as such to the Department of Revenue by the Department of Health and Hospitals in accordance with R.S. 47:6026(E).

Commissioner—the Louisiana Commissioner of Agriculture and Forestry or his designee.

Federal Milk Market Order (FMMO)—a regulation issued by the United States secretary of agriculture specifying minimum prices and conditions for the purchase of milk from dairy farmers within a specified geographic area.

Information Release Form—a form entitled Authorization to Release Information which authorizes the milk market administrator or other persons to release information held by the administrator or other person relative to that milk producer.

LDAF—the Louisiana Department of Agriculture and Forestry or its designee.

Milk Handler—the person, including a dairy cooperative, who collects or receives a milk producer's milk directly from the milk producer's dairy.

Milk Market Administrator—the market administrator of the FMMO that covers this state.

Milk Producer—a resident taxpayer of the State of Louisiana who is engaged in the business of producing milk in this state from his own cows.

Non-Pooled Milk—milk that is produced in Louisiana for sale but is not included in milk production records maintained by the milk market administrator. Examples of non-pooled milk include milk pooled on FMMOs that do not cover this state, milk that has been sold but not pooled on any FMMO, and milk that had to be dumped or destroyed for legitimate reasons.

Non-Pooled Milk Form—a form or list entitled "non-pooled milk production certification" submitted by a milk producer or milk handler showing the amount of non-pooled milk produced by a milk producer for a year for which the credit is applied for.

Production Price—an annual price derived by averaging over 12 months the monthly sum of the market balancing factor, (which is the monthly arithmetic difference between the average of the sums of the uniform prices plus the associated transportation costs of moving milk from its export points of origin to New Orleans, Louisiana less the monthly uniform price in the FMMO that covers this state), plus the cost of milk production in this state as determined by the LSU Agricultural Center's Department of Agricultural Economics and Agribusiness.

Tax Credit—the milk producer refundable tax credit established by R.S. 47:6032.

Uniform Price—the weighted average price established in the FMMO covering this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2(A) and R.S. 47:6032(B).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner LR 34:

§505. Cooperative Endeavor Agreements

A. For the purpose of implementing the provisions of Acts 2007, No. 461 and these regulations LDAF, through the Commissioner, may enter into cooperative endeavor agreements with other state agencies, federal agencies, or private entities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2(A) and R.S. 47:6032(B).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner LR 34:

§507. Responsibilities of Milk Producers and Milk Handlers

A. It shall be the responsibility of any milk producer who wants to apply for a tax credit in the year for which the credit is applied for to:

1. hold a milk producer permit during the year for which the credit is applied for under Louisiana Administrative Code, Title 51, Public Health—Sanitary Code, Part VII, Milk, Milk Products, and Manufactured Milk Products and meet the requirements of the 2007 revision to the Grade A Pasteurized Milk Ordinance of the United States Food and Drug Administration;

2. ensure that the records of the Department of Health and Hospitals reflect that during the year for which the credit is applied for the milk producer was in compliance with the requirements set out in Paragraph 1 for purposes of being certified as a milk producer;

3. timely submit to LDAF a properly completed and signed information release form;

4. timely submit to LDAF a properly completed and signed non-pool milk form for the year for which the credit is applied for if the milk producer's milk did not go into the FMMO milk pool for Louisiana and is not listed on a non-pooled milk form submitted by the milk producer's milk handler. The form shall certify the amount of such non-pool milk produced by the milk producer for that year and the reasons why the milk is non-pooled milk and why the milk is not listed on the certification form submitted by the milk handler;

5. timely submit to LDAF all other forms and information, properly completed and signed, that may be required by that department;

6. timely submit an application for the tax credit to the Department of Revenue on forms supplied by that department and in accordance with that department's regulations and policies.

B. It shall be the responsibility of each milk handler to timely submit to LDAF a properly completed and signed non-pooled milk form showing the amount of non-pooled milk collected or received by the milk handler from each of its milk producers. A milk handler may substitute a list showing its milk producers who have non-pooled milk, the amount of non-pooled milk, and the reason the milk is non-pooled milk for the non-pooled milk form.

C. Failure of a milk producer or milk handler to fulfill the responsibilities set out in Subsections A and B of this Section may result in the milk producer being disqualified from receiving any tax credit for the applicable tax year for which the credit is applied for or receiving less than the maximum allowable tax credit for the year for which the credit is applied for.

D. All forms and lists shall be free of false statements or false representations of any material fact. A milk producer or milk handler may be referred to the appropriate district attorney for possible criminal prosecution under R.S. 14:133 for filing false public records if the milk producer or milk handler files with LDAF or other state agency a form that contains a false statement or false representation of a material fact or provides false information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2(A) and R.S. 47:6032(B).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner LR 34:

§509. Forms; Distribution

A. All forms required by these regulations to be filled out and submitted by a milk producer or milk handler may be obtained from LDAF.

B. LDAF shall submit all forms relative to the tax credit which are received from milk producers and milk handlers to the proper state or federal agency or other appropriate entity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2(A) and R.S. 47:6032(B).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner LR 34:

§511. Determination of the Announced Production Price

A. The announced production price shall be determined based on the following factors:

1. the average uniform price of milk in the top five states from which milk is imported to Louisiana;

2. the average transportation cost of importing milk from those five states;

3. the cost of production in Louisiana.

B. The determination of the announced production price shall be based on calculations made by the Louisiana State University Agricultural Center, Department of Agricultural Economics and Agribusiness, using the factors set out in Subsection A of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2(A) and R.S. 47:6032(B).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner LR 34:

§513. Determination of Tax Credit for Individual Producers and Eligible Quarters

A. LDAF shall, no later than April 30 of each year, provide the Department of Revenue with a chart for the previous year for which the credit is applied for showing the names of each participating certified milk producer, the amount of milk produced by each, the anticipated amount of tax credit each certified milk producer is eligible to receive, and any other information necessary or proper for the Department of Revenue to pay the tax credits.

1. Prior to submission of the chart to the Department of Revenue, a review committee composed of a person appointed by the commissioner, one person appointed by the secretary of health and hospitals, one person appointed by the secretary of revenue, and one certified milk producer appointed by the commissioner shall review and approve the chart.

B. Determination of the amount of milk produced during a calendar year by a participating certified milk producer shall be based on information obtained from the non-pooled milk certification forms and from records maintained by the milk market administrator.

C. Determination of the anticipated amount of tax credit each certified milk producer is eligible to receive shall be based on:

1. the amount of milk produced by the certified milk producer;

2. the maximum amount of tax credit the certified milk producer would be eligible to receive based on the

amount of milk produced by that certified milk producer and the tax credit schedule set out in R.S. 47:6032(C);

3. if applicable, the percentage or ratio shown by dividing the statutory cap on the tax credit by the aggregate of the tax credit that all the certified milk producers would be eligible to receive if there was no statutory cap in place; and

4. the number of eligible quarters to which the tax credit shall be prorated.

a. A quarter shall be considered to be an eligible quarter for purposes of the tax credit whenever the uniform price for any one month of the quarter drops below the announced production price.

NOTE: For example, assume that a participating certified milk producer produces between 2,000,001 and 2,500,000 pounds of pooled and non-pooled milk combined for the year in which he is applying for a tax credit. He would be eligible under the statute for a maximum tax credit of \$20,000, which, prorated over four quarters, would be \$5,000 per quarter. If the aggregate of the tax credits that all participating certified milk producers would be entitled to for that year is equal to or less than the statutory cap of \$2,500,000 and each quarter of the year is an eligible quarter then the certified milk producer in this example would receive a \$20,000 tax credit. If there are only two eligible quarters in the year then the maximum tax credit he would receive would be \$10,000, (\$5,000 per quarter X 2).

If, however, the aggregate of the tax credits that all participating certified milk producers would be entitled to exceeds the statutory cap of \$2,500,000 then all individual tax credits would have to be adjusted by a percent or ratio such that the aggregate cap of dairy tax credits for the taxable year would not exceed \$2,500,000. Suppose the aggregate tax credit in this example equaled \$3,100,000. Then the whole number percentage or ratio adjustment to individual tax credits necessary to maintain the aggregate tax credit for the year at or under \$2,500,000 would be 80 percent. The participating certified milk producer in this example would be eligible for a maximum credit of \$16,000, or \$4,000 per quarter, (80% of the maximum tax credit of \$20,000) if each quarter of the year is an eligible quarter. However, if there were only two eligible quarters in the year and the aggregate of the tax credits that all participating certified milk producers would be entitled to receive would, by virtue of that fact, be reduced to \$2,500,000 or less then the certified milk producer in this example would be eligible to receive the non-prorated maximum tax credit for each quarter. In this example that tax credit would be \$10,000, (\$5,000 per quarter X 2).

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2(A) and R.S. 47:6032(B).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner LR 34:

§515. Payment of Tax Credit

A. The tax credit shall be paid by the Department of Revenue to a certified milk producer based on the name and tax identification number listed on the chart that LDAF provides to the Department of Revenue.

B. LDAF shall determine the name and tax identification number of the certified milk producer based on the name and tax identification number listed on the information release form.

C. If two or more milk producers combined their milk under one certified milk producer's permit then the division of the tax credit among such milk producers shall be the responsibility of those milk producers and not the responsibility of either LDAF or the Department of Revenue.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2(A) and R.S. 47:6032(B).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner LR 34:

§517. Certification of Non-Pooled Milk

A. LDAF may certify non-pooled milk for inclusion in determining the amount of tax credit due to a certified milk producer if a non-pooled milk form or list is submitted by the certified milk producer or on his behalf by a milk handler not later than January 31 of the year immediately following the year for which the credit is applied for.

B. The milk producer or milk handler shall provide LDAF with documentation sufficient to show that the non-pooled milk was commercially produced in Louisiana and the reason why the milk is non-pooled milk.

C. LDAF may investigate the circumstances and require the milk producer or milk handler to provide additional information in determining whether the non-pooled milk is to be used for determining the milk producer's tax credit.

D. If LDAF determines that the non-pooled milk is to be used for determining the certified milk producer's tax credit then LDAF shall notify the milk producer of that determination and provide the information to the person or entity making the tax credit calculations.

E. If LDAF determines that the non-pooled milk is not to be used for determining the milk producer's tax credit then LDAF shall notify the milk producer of that determination on or before February 28 of the year immediately following the year for which the credit is applied for.

F. Any milk producer who is aggrieved by a decision of LDAF regarding the eligibility of non-pooled milk may petition the commissioner for an administrative hearing to determine the validity of the decision by LDAF.

1. Any such petition must be filed within 30 days after the milk producer receives notice from LDAF of the decision the milk producer is appealing.

2. The administrative hearing shall be held within 30 days after receipt of the milk producer's petition. The administrative hearing shall be conducted in accordance with the provisions of the Administrative Procedure Act.

3. The commissioner may conduct the hearing or appoint a hearing officer to conduct the hearing and make a recommendation to the commissioner. In all cases the commissioner shall make the final administrative decision.

4. Any petition for judicial review of the commissioner's decision shall be filed in accordance with the Administrative Procedure Act and within the time limits set out in the APA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2(A) and R.S. 47:6032(B).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner LR 34:

§519. Notices

A. LDAF shall publish the announced production price and list of eligible quarters in the *Potpourri* Section of the *Louisiana Register* and disseminate this information to milk producers by means reasonably calculated to provide notice to the milk producers.

B. LDAF shall notify each participating certified milk producer of the amount of tax credit that the milk producer is entitled to at the time that the chart of tax credits is submitted to the Department of Revenue.

C. All announcements and notices relative to the tax credit that LDAF is required to provide by law or these

regulations to milk producers shall be provided by means reasonably calculated to provide notice to the milk producers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2(A) and R.S. 47:6032(B).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner LR 34:

§521. Disputes Regarding Milk Producer Tax Credit Qualifications

A. All disputes regarding whether a milk producer is or is not a certified milk producer shall be decided by the Department of Health and Hospitals in accordance with the regulations and policies of that department.

B. All disputes regarding eligibility for a tax credit or the amount thereof due the milk producer under the provisions of R.S. 47:6032 shall be decided by the Department of Revenue in accordance with the regulations and policies of that department.

C. All disputes regarding certification of the amount of non-pooled milk produced during a calendar year shall be decided by the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2(A) and R.S. 47:6032(B).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner LR 34:

§523. Confidentiality of Records; Maintenance of Records

A. All information provided by a milk producer or milk handler to LDAF or to other state or federal agencies and any information received by LDAF from other state or federal agencies that is declared by the milk producer or milk handler to be proprietary or trade secret information, or which is considered to be confidential under the U.S. or Louisiana Constitutions or by Louisiana law shall be treated by LDAF as confidential information that is exempt from Louisiana's public records laws.

B. LDAF's records relative to the tax credit shall be maintained for a period of three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2(A) and R.S. 47:6032(B).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner LR 34:

Family Impact Statement

The proposed amendments to Title 7 Part XXXI Chapter 5 regarding a refundable tax credit for certified milk producers should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

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

All interested persons may submit written comments on the proposed Rule through the close of business on May 23, 2008, to Benjy Rayburn, Department of Agriculture and Forestry, 5825 Florida Blvd., Baton Rouge, LA 70806. All

interested persons will be afforded an opportunity to submit data, views or arguments in writing at the address above. No preamble concerning the proposed Rule is available.

Mike Strain, DVM
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Tax Credit for Certain Milk Producers

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

The Department of Agriculture and Forestry and the Department of Revenue could experience minor administrative costs associated with this proposed rule change, which provides for a refundable tax credit for certain milk producers as enacted by Act 461 of the 2007 Regular Legislative Session.

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

This proposed rule change implements a new refundable tax credit for certain milk producers pursuant to Act 461 of the 2007 Regular Legislative Session. This new tax credit is estimated to decrease overall State General Fund revenues to the state of Louisiana in the amount of \$1.55 million in Fiscal Year 2007 and approximately \$2.5 million in Fiscal Year 2008. Per Act 461, the Commissioner of Agriculture and Forestry will review this tax credit after being in place for two taxable years.

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

The estimated economic benefit to Louisiana dairy farmers will be approximately \$1.55 million in total state refundable income tax credits for calendar year 2008. Each Louisiana dairy farmer is allowed only \$30,000 of refundable tax credits per calendar year with the total aggregate potential amount of tax credits being \$2.5 million each calendar year. Per Act 461, the Commissioner of Agriculture and Forestry will review this tax credit after being in place for two taxable years.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule change could impact employment and competition in that the Louisiana dairy farmer will have the opportunity for a financial incentive, which could assist in Louisiana dairy farms maintaining employment of Louisiana dairy farm workers.

Craig Gannuch
Assistant Commissioner
0804#043

Robert. E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Civil Service
Division of Administrative Law**

Ethics Adjudicatory Board
(LAC 1:III.Chapter 8)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, and under the authority of R.S. 49:996(7), the director of the Division of Administrative Law gives notice that rulemaking procedures have been initiated to implement the provisions of R.S. 42:1141 as amended by Acts 2008, No. 23 to provide procedural processes for the selection of

the members of the Ethics Adjudicatory Board, three judge panels, recusal of board members and panel procedure.

Title 1

ADMINISTRATIVE LAW

Part III. Division of Administrative Law

Chapter 8. Ethics Adjudicatory Board

§801. Selection of Board Members and Panels

A. Public Meeting. The selection of the Ethics Adjudicatory Board will take place during a public meeting of the Louisiana Board of Ethics.

B. Random Selection Process

1. The director of the Division of Administrative Law, or his designee, shall place into a container, the names of all probationary and permanent Division of Administrative Law administrative law judges who meet the statutory qualifications. They must have:

- a. not less than two years experience as an administrative law judge; or
- b. not less than 10 years experience in the practice of law.

2. The director or his designee shall blindly select seven names from the container, one at a time. Each name shall be recorded and assigned a number, according to the order of its selection.

C. Term of Board. These seven administrative law judges shall constitute the Ethics Adjudicatory Board. The first board shall serve from August 15, 2008, until January 1, 2009. Thereafter, the Ethics Adjudicatory Board members shall be selected annually in December, to serve one year terms from January 1 to December 31 of the following calendar year.

D. Three Judge Panels. The judges shall sit in three judge panels. The first three names selected shall be a three judge panel designated "A." The next three names selected shall be a three judge panel, "B." When a new case is docketed, it will be allotted alternately between the two panels. A case docketed and assigned to panel A or B shall remain with that designated panel letter until final decision.

E. Alternate Judge. The seventh name selected shall be an alternate administrative law judge to be substituted for administrative law judges who are unavailable due to recusal, end of employment with the Division of Administrative Law, or for other good cause.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 34:

§803. Recusal of an Ethics Adjudicatory Board Member

A. An Ethics Adjudicatory Board member shall voluntarily recuse himself and withdraw from any adjudication in which he cannot accord a fair and impartial hearing or consideration, when required by applicable rules governing the practice of law in Louisiana or for other good cause such as conflict of interest. Applicable recusal provisions include R.S. 49:960, R.S. 49:999, or other conflict of interest provisions.

B. When an Ethics Adjudicatory Board member is recused from a panel or a case to be adjudicated, the alternate administrative law judge shall be assigned to the panel or case.

C. In the event the alternate judge is unavailable, the administrative hearings clerk shall randomly select a name

from the remaining Ethics Adjudicatory Board members by placing their names in a container and blindly selecting one. The selected individual shall be substituted on the panel or the case.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 34:

§805. Panel Procedure

A. The administrative law judge most senior in service for the Division of Administrative Law who is present, shall preside over the hearing.

B. The determination of the majority of the panel in a particular case shall be the determination of the Ethics Adjudicatory Board.

C. After the hearing, the presiding judge shall assign authorship responsibility for the determination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 34:

§807. Appeals to the Court of Appeals

A. When a decision of the Ethics Adjudicatory Board is adopted by the Board of Ethics pursuant to R.S. 42:1141(C)(5) is appealed to the Court of Appeals, copies of the motion for appeal shall be served upon the Division of Administrative Law and all parties of record.

B. The Division of Administrative Law shall prepare the record on appeal after payment of costs pursuant to §305 of these rules.

C. Any motion for an appeal shall comply with the local rules of that court and Uniform Rules of Louisiana Courts of Appeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 34:

Family Impact Statement

1. The Effect of this Rule on the Stability of the Family. This Rule will have no effect on the stability of the family.

2. The Effect of this Rule on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. This Rule will have no effect on the authority and right of parents regarding the education and supervision of their children.

3. The Effect of this Rule on the Functioning of the Family. This Rule will have no effect on the functioning of the family.

4. The Effect of this Rule on Family Earnings and Family Budget. This Rule will have no effect on family earning and family budget.

5. The Effect of this Rule on the Behavior and Personal Responsibility of Children. This Rule will have no effect on the behavior and personal responsibility of children.

6. The Effect of this Rule on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rules. This Rule will have no effect on the ability of the family or local government to perform the function as contained in the proposed Rules.

Interested persons are invited to submit written comments on this proposed Rule until May 20, 2008, at 5 p.m. Written

comments may be addressed to Vivian B. Guillory, Deputy General Counsel, Division of Administrative Law, and P.O. Box 44033, Baton Rouge, LA 70804.

Ann Wise
Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Ethics Adjudicatory Board**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There are no costs associated with implementing these rules. However, LSA-R.S. 42:1141 (Acts 2008, Ex. Sess. 1, No.23), the statutory authority for this rule promulgation, reflects implementation costs of \$384,670 for FY 2008-09 due to salaries and related benefits for 4 new positions, and operating and acquisition expenses required to implement the Act.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no effect on revenue collections of state or local governmental units as a result of promulgation of these rules.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There are no costs or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no effect on competition and employment as a result of promulgation of these rules.

Ann Wise
Director
0804#042

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—High School Graduation Requirements and Mathematics (LAC 28: CXV.2319 and 2353)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 741—Louisiana Handbook for School Administrators*: §2319. High School Graduation Requirements and §2353. Mathematics. The revision to Sections 2319 and 2353 will accomplish the following:

- change the name of Advanced Math I and Advanced Math II to Advanced Math-Pre-Calculus and Advanced Math—Functions and Statistics;
- allow a second semester of Civics to count toward the fourth social studies requirement in the LA Core 4 Curriculum;
- change the name of the new math course Senior Applications in Math to Math Essentials;
- add the new course Senior Applications in English as an option for English IV for students who graduate

prior to 2012 and add Math Essentials to the Mathematics Program of Studies for students who graduate prior to 2012; and

- correct the date for the new course requirements for the Academic Endorsement and the Career Technical Endorsement to 2011-2012.

These revisions were proposed to provide clarity to the names of the courses in the curriculum, to provide more options for students to take rigorous courses, and to correct an error in the policy.

**Title 28
EDUCATION**

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

**Chapter 23. Curriculum and Instruction
§2319. High School Graduation Requirements**

- A. - D. ...
- E. Minimum Course Requirements for High School Graduation
 - 1. For incoming freshmen prior to 2008-2009, the minimum course requirements for graduation shall be the following.

English	4 units
Shall be English I, II, and III, in consecutive order; and English IV or Business English or Senior Applications in English.	
Mathematics	3 units
(Effective for incoming freshmen 2005-2006 and beyond.) All students must complete one of the following: <ul style="list-style-type: none"> • Algebra I (1 unit) or • Algebra I-Pt. 1 and Algebra I-Pt. 2 (2 units) or • Integrated Mathematics I (1 unit) The remaining unit(s) shall come from the following: Integrated Mathematics II, Integrated Mathematics III, Geometry, Algebra II, Financial Mathematics, Advanced Math—Pre-Calculus, Advanced Math—Functions and Statistics, Pre-Calculus, Calculus, Probability and Statistics, Math Essentials, and Discrete Mathematics. (Effective for incoming freshmen 1997-98 through 2004-2005) Shall be selected from the following courses and may include a maximum of 2 entry level courses (designated by E): Introductory Algebra/Geometry (E), Algebra I-Part 1 (E), Algebra I-Part 2, Integrated Mathematics I (E), Integrated Mathematics II, Integrated Mathematics III, Applied Mathematics I (E), Applied Mathematics II, Applied Mathematics III, Algebra I (E), Geometry, Algebra II, Financial Mathematics, Advanced Mathematics I, Advanced Mathematics II, Pre-Calculus, Calculus, Probability and Statistics, Math Essentials, and Discrete Mathematics	
Science	3 units
Shall be the following: 1 unit of Biology 1 unit from the following physical science cluster: Physical Science, Integrated Science, Chemistry I, Physics I, Physics of Technology I 1 unit from the following courses: Aerospace Science, Biology II, Chemistry II, Earth Science, Environmental Science, Physics II, Physics of Technology II, Agriscience II, an additional course from the physical science cluster, or a locally initiated science elective. <ul style="list-style-type: none"> • Students may not take both Integrated Science and Physical Science • Agriscience I is a prerequisite for Agriscience II and is an elective course. 	
Social Studies	3 units
Shall be American History, 1/2 unit of Civics or AP American Government, 1/2 unit of Free Enterprise; and 1 of the following: World History, World Geography, Western Civilization, or AP European History.	

Health Education	1/2 unit
Physical Education	1 1/2 units
Shall be Physical Education I and Physical Education II, or Adapted Physical Education for eligible special education students. A maximum of 4 units of Physical Education may be used toward graduation. NOTE: The substitution of JROTC is permissible.	
Electives	8 units
TOTAL	23 units

2. For incoming freshmen in 2008-2009 and beyond who are completing the Louisiana Core Curriculum, the minimum course requirements for graduation shall be the following.

English	4 units
Shall be English I, II, and III, and English IV or Senior Applications in English	
Mathematics	4 units
Algebra I (1 unit) or Algebra I-Pt. 1 and Algebra I-Pt. 2 (2 units) Geometry The remaining units shall come from the following: Algebra II, Financial Mathematics, Math Essentials, Advanced Math—Pre-Calculus, Advanced Math—Functions and Statistics, Pre-Calculus, Calculus, Probability and Statistics, Discrete Mathematics, or a locally initiated elective approved by BESE as a math substitute..	
Science	3 units
Shall be the following: 1 unit of Biology 1 unit from the following physical science cluster: Physical Science, Integrated Science, Chemistry I, Physics I, Physics of Technology I 1 unit from the following courses: Aerospace Science, Biology II, Chemistry II, Earth Science, Environmental Science, Physics II, Physics of Technology II, Agriscience II, Anatomy and Physiology, an additional course from the physical science cluster, or a locally initiated elective approved by BESE as a science substitute. <ul style="list-style-type: none"> Students may not take both Integrated Science and Physical Science Agriscience I is a prerequisite for Agriscience II and is an elective course. 	
Social Studies	3 units
Shall be American History, 1/2 unit of Civics or AP American Government, 1/2 unit of Free Enterprise; and 1 of the following: World History, World Geography, Western Civilization, or AP European History.	
Health Education	1/2 unit
Physical Education	1 1/2 units
Shall be Physical Education I and Physical Education II, or Adapted Physical Education for eligible special education students. A maximum of 4 units of Physical Education may be used toward graduation. NOTE: The substitution of JROTC is permissible.	
Electives	8 units
TOTAL	24 units

3. For incoming freshmen in 2008-2009 and beyond who are completing the Louisiana Core 4 Curriculum, the minimum course requirements shall be the following.

English	4 units
Shall be English I, II, III, and English IV	
Mathematics	4 units
Algebra I (1 unit) or Algebra I-Pt. 2 Geometry Algebra II The remaining unit shall come from the following: Financial Mathematics, Math Essentials, Advanced Math—Pre-Calculus, Advanced Math—Functions and Statistics, Pre-Calculus, Calculus, Probability and Statistics, Discrete Mathematics, or a locally-initiated elective approved by BESE as a math substitute	
Science	4 units
Shall be the following: 1 unit of Biology 1 unit of Chemistry 2 units from the following courses: Physical Science, Integrated Science, Physics I, Physics of Technology I, Aerospace Science, Biology II, Chemistry II, Earth Science, Environmental Science, Physics II, Physics of Technology II, Agriscience II, Anatomy and Physiology, or a locally initiated elective approved by BESE as a science substitute. <ul style="list-style-type: none"> Students may not take both Integrated Science and Physical Science Agriscience I is a prerequisite for Agriscience II and is an elective course. A student completing a Career and Technical Area of Concentration may substitute a BESE/Board of Regents approved IBC-related course from within the student's Area of Concentration for the 4th required science unit	
Social Studies	4 units
Shall be the following 1/2 unit of Civics or AP American Government 1/2 unit of Free Enterprise 1 unit of American History 1 unit from the following: World History, World Geography, Western Civilization, or AP European History 1 unit from the following: World History, World Geography, Western Civilization, AP European History, Law Studies, Psychology, Sociology, Civics (second semester—1/2 credit) or African American Studies. A student completing a Career and Technical Area of Concentration may substitute a BESE/Board of Regents approved IBC-related course from within the student's Area of Concentration for the 4th required social studies unit.	
Health Education	1/2 unit
Physical Education	1 1/2 units
Shall be Physical Education I and Physical Education II, or Adapted Physical Education for eligible special education students. A maximum of four units of Physical Education may be used toward graduation. NOTE: The substitution of JROTC is permissible.	
Foreign Language	2 units
Shall be 2 units in the same foreign language or 2 Speech courses	
Arts	1 unit
1 unit Fine Arts Survey or 1 unit of Art (§2333), Dance (§2337), Music (§2355), Theatre Arts (§2333), or Applied Arts. A student completing a Career and Technical Area of Concentration may substitute a BESE/Board of Regents approved IBC-related course from within the student's area of concentration for the required applied arts unit.	
Electives	3 units
TOTAL	24 units

F. - F.1.c. ...

* * *

G. Academic Endorsement

1. Graduating seniors who meet the requirements for a standard diploma and satisfy the following performance indicators shall be eligible for an academic endorsement to the standard diploma.

a. Students graduating prior to 2011-2012 shall complete an Academic Area of Concentration. Students graduating in 2011-2012 and beyond shall complete the following curriculum requirements.

English	4 units
English I, II, III, and IV	
Mathematics	4 units
Algebra I (1 unit) or Algebra I-Pt. 2 Geometry Algebra II The remaining unit shall come from the following: Advanced Mathematics I, Advanced Mathematics II, Pre-Calculus, Calculus, Probability and Statistics, or Discrete Mathematics	
Science	4 units
1 unit of Biology 1 unit of Chemistry 1 unit of advanced science from the following courses: Biology II, Chemistry II, Physics, or Physics II 1 additional science unit	
Social Studies	4 units
1/2 unit of Civics or AP American Government and Politics 1/2 unit of Free Enterprise 1 unit of American History 1 unit from the following: World History, World Geography, Western Civilization, or AP European History 1 unit from the following: World History, World Geography, Western Civilization, AP European History, Economics, Law Studies, Psychology, Sociology, or African American Studies.	
Health Education	1/2 unit
Physical Education	1 1/2 units
NOTE: The substitution of JROTC is permissible.	
Foreign Language	2 units
Shall be 2 units in the same foreign language	
Arts	1 unit
1 unit Fine Arts Survey or 1 unit of Art (§2333), Dance (§2337), Music (§2355), Theatre Arts (§2333), or Applied Arts.	
Electives	3 units
TOTAL	24 units

b. - e. ...

H. Career/Technical Endorsement

1. Students who meet the requirements for a standard diploma and satisfy the following performance indicators shall be eligible for a career/technical endorsement to the standard diploma.

a. Students graduating prior to 2011-2012 shall meet the current course requirements for the TOPS Opportunity Award or the TOPS Tech Award. Students graduating in 2010-2011 and beyond shall meet the course requirements for the Louisiana Core 4 Curriculum.

H.1.b. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4; R. S. 17:183.2; R.S. 17: 395.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 31:2211 (September 2005), LR 31:3070, 3072 (December 2005), LR 32:1414 (August 2006), LR 33:429, 432

(March 2007), LR 33:2050 (October 2007), LR 33:2354 (November 2007), LR 33:2601 (December 2007), LR 34:

§2353. Mathematics

A. Effective for 2008-2009 incoming freshmen, four units of mathematics shall be required for graduations. All students must complete the following:

1. Algebra I (1 unit) or Algebra I-Pt. 1 and Algebra I-Pt. 2 (2 units)

2. Geometry. The remaining units shall come from the following:

a. Algebra II, Financial Mathematics, Math Essentials, Advanced Math-Pre-Calculus, Advanced Math-Functions and Statistics, Pre-Calculus, Calculus, Probability and Statistics, Discrete Mathematics, or a locally-initiated elective approved by BESE as a math substitute.

B. Effective for 2005-2006 to 2007-2008 incoming freshmen, three units of mathematics shall be required for graduation. All students must complete one of the following:

1. Algebra I (1 unit); or

2. Algebra I-Pt. 1 and Algebra I-Pt. 2 (2 units); or

3. Integrated Mathematics I (1 unit). The remaining unit(s) shall come from the following.

a. Integrated Mathematics II, Integrated Mathematics III, Geometry, Algebra II, Financial Mathematics, Advanced Math-Pre-Calculus, Advanced Math-Functions and Statistics, Pre-Calculus, Calculus, Probability and Statistics, Math Essentials and Discrete Mathematics.

C. For incoming freshmen 1997-98 to 2004-2005, the three required mathematics courses shall be selected from the following courses and may include a maximum of two entry level courses (designated by E): Introductory Algebra/Geometry (E), Algebra I-Part 1 (E), Algebra I-Part 2, Integrated Mathematics I (E), Integrated Mathematics II, Integrated Mathematics III, Applied Mathematics I (E), Applied Mathematics II, Applied Mathematics III, Algebra I (E), Geometry, Algebra II, Financial Mathematics, Advanced Math-Pre-Calculus, Advanced Math-Functions and Statistics, Pre-Calculus, Calculus, Probability and Statistics, Math Essentials and Discrete Mathematics.

D. Students who score at the unsatisfactory achievement level on the mathematics component of grade eight LEAP 21 shall pass a high school remedial course in mathematics before enrolling in any course in the Secondary Program of Studies for Mathematics.

1. Introductory Algebra/Geometry may be used as the high school remediation course for students who have been promoted to the ninth grade without having passed the mathematics component of grade eight LEAP.

E. Financial Mathematics may be taught by teachers certified in Business Education.

F. The mathematics course offerings shall be as follows.

Course Title(s)	Units
Advanced Math—Pre-Calculus	1
Advanced Math—Functions and Statistics	1
Algebra I, II	1 each
Algebra I—Part 1	1
Algebra I—Part 2	1
Calculus	1
Discrete Mathematics	1
Financial Mathematics	1
Geometry	1
Integrated Mathematics I, II, III	1 each

Course Title(s)	Units
Introductory Algebra/Geometry (Remediation Elective)	1
Pre-Calculus	1
Probability and Statistics	1
Math Essentials	1

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1296 (June 2005), amended LR 33:2605 (December 2007), LR 34:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. Please respond to the following.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Interested persons may submit written comments until 4:30 p.m., June 9, 2008, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 741—Louisiana Handbook for School Administrators—High School Graduation Requirements and Mathematics

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

The implementation of changes requires no cost or savings to state or local governmental units. The revision to Sections 2319 and 2353 in *Bulletin 741: Louisiana Handbook for School Administrators* will accomplish the following:

- Change the name of Advanced Math I and Advanced Math II to Advanced Math—Pre-Calculus and Advanced Math—Functions and Statistics
- Allow a second semester of Civics to count toward the fourth social studies requirement in the LA Core 4 Curriculum
- Change the name of the new math course Senior Applications in Math to Math Essentials
- Add the new course Senior Applications in English as an option for English IV for students who graduate prior to 2012 and add Math Essentials to the Mathematics

Program of Studies for students who graduate prior to 2012

- Correct the date for the new course requirements for the Academic Endorsement and the Career Technical Endorsement to 2011-2012.

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

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

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

There will be no costs or economic benefits to schools or school districts.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
0804#011

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel—Junior Reserve Officers Training Corps Instructor (ROTC)(LAC 28:CXXXI.347)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 746—Louisiana Standards for State Certification of School Personnel: §347. Junior Reserve Officers Training Corps Instructor (ROTC)*. There are no other renewal guidelines in place for this certificate other than a request from the Louisiana employing authority. This recommendation is that the ancillary Jr. ROTC certificate be made valid for life of continuous service upon completion of three years of successful experience as a ROTC instructor. Currently an individual certified as a Jr. ROTC instructor would have to pay a \$25 every five years to have their ancillary certificate renewed. This change would have them pay a \$25 one time fee to have their certificate converted to a certificate that is valid for life of continuous service.

Title 28

EDUCATION

Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel

Chapter 3. Teaching Authorizations and Certifications

Subchapter C. Ancillary Teaching Certificates §347. Junior Reserve Officers Training Corps

Instructor (ROTC)—Valid for Three Years

A. An ancillary certificate issued in ROTC authorizes an individual to teach Junior ROTC.

1. Eligibility requirements:

a. be retired from active duty in the retired grades of E-6 through E-9, WO-1 through CWO-5, O3 through O6; and

b. official recommendation by appropriate branch of the military service with certification by the appropriate Department of Defense.

2. **Validity Guidelines.** This certificate may be changed to "valid for life with continuous service" with verification of three years of service as a ROTC instructor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:432 (March 2008), amended LR 34:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Interested persons may submit written comments until 4:30 p.m., June 9, 2008, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 746—Louisiana Standards for State Certification of School Personnel—Junior Reserve Officers Training Corps Instructor (ROTC)

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

This revision will allow the issuance of a Junior Reserves Officers Training Corps Instructor (ROTC) certificate that is valid for three years. Upon successfully serving as a ROTC instructor for three years his/her certificate can be converted to a lifetime certificate. The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.

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

This policy will have no effect on revenue collections.

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

Currently an individual certified as a Jr. ROTC instructor would have to pay a \$25.00 every five years to have their ancillary certificate renewed. This change would have them pay a \$25.00 one time fee to have their certificate converted to a certificate that is valid for life of continuous service.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
0804#012

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel—Professional Level and Out-of-State (OS) Certificates (LAC 28:CXXXI.305 and 309)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to Bulletin 746—*Louisiana Standards for State Certification of School Personnel*: §305. Professional Level Certificates, and §309. Out-of-State (OS) Certificate. This revision in the Out-of-State (OS) certification policy allows a candidate who is certified in another state to be excluded from all Praxis examination(s) required for certification in Louisiana upon documentation of at least four years of successful teaching experience in another state and one year of successful teaching on an OS certificate in a Louisiana approved public or an approved private school system. This proposed change is due to an amendment of R.S. 17:7(6)(b)(i)(cc), as a result of House Bill No. 188, Regular Session 2007. The proposed revision will allow the Out-of-State certification policy to apply equally to teachers in Louisiana's public and approved nonpublic schools.

Title 28 EDUCATION

Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel Chapter 3. Teaching Authorizations and Certifications

Subchapter A. Standard Teaching Authorizations §305. Professional Level Certificates

A. - A.1.b.ii ...

(a). He/she meets all requirements for Louisiana certification except the Praxis exam requirements; has at least four years of successful teaching experience in another state, as determined by the board; and teaches on an out-of-state certificate for one year in a Louisiana approved public or an approved private school system.

(b). The teacher's employing authority must verify that he/she has completed one year of successful teaching experience in a Louisiana approved public or an approved private school and that he/she has been recommended for further employment.

(c). The employing authority must request that he/she be granted a valid Louisiana teaching certificate.

A.1.c. - E.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1797 (October 2006), amended LR 33:433 (March 2007), LR 34:233 (February 2008), LR 34:

§309. Out-of-State (OS) Certificate

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

i. he/she meets all requirements for Louisiana certification except the Praxis exam requirements; has at least four years of successful teaching experience in another state, as determined by the board; and teaches on an OS certificate for one year in a Louisiana approved public or an approved private school system;

ii. the teacher's Louisiana employing authority verifies that he/she has completed one year of successful teaching experience in a Louisiana approved public or an approved private school and that he/she has been recommended for further employment; and

iii. - iv.(b). ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1799 (October 2006), amended LR 33:433 (March 2007), LR 34:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Interested persons may submit written comments until 4:30 p.m., June 9, 2008, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 746—Louisiana Standards for State Certification of School Personnel—Professional Level and Out-of-State (OS) Certificates

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

This revision in the Out-of-State (OS) certification policy allows a candidate who is certified in another state to be excluded from all Praxis examination(s) required for

certification in Louisiana upon documentation of at least four years of successful teaching experience in another state and one year of successful teaching on an OS certificate in a Louisiana approved public or an approved private school system. This proposed change is due to an amendment of R.S. 17:7(6)(b)(i)(cc), as a result of HOUSE BILL NO. 188, Regular Session 2007. The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.

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

This policy will have no effect on revenue collections.

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

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

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
0804#013

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

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

Expedited Penalty Agreement
(LAC 33:I.801 and 807; VII.115 and 315; and XI.703) (MM004)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Environmental Quality regulations, LAC 33:I.801 and 807; VII.115 and 315; and XI.703 (Log #MM004).

This Rule makes additions to the the list of violations that may qualify for expedited penalties in LAC 33:I.807, clarifies existing violations, and adjusts penalty amounts to be consistent across media for similar violations. Other environmental regulations are amended in relation to these changes. The structure of the expedited penalties table is changed to divide it into separate tables by media and type to facilitate printing. The additions to the qualifying violations will abate delays that have occurred in correcting violations of the Environmental Quality Act concerning the unauthorized transporting, disposal, and/or burning of solid wastes, violations of the UST delivery prohibition rule required by the federal Underground Storage Tank Compliance Act of 2005, and other various violations of the environmental quality regulations. Delays in enforcement reduce the effectiveness of the enforcement action, unnecessarily utilize resources, and slow down the enforcement process. The Expedited Penalty Agreement program provides an alternative penalty assessment mechanism that the department may utilize, at its discretion, to expedite penalty agreements in appropriate cases, reducing staff time and increasing efficiency in addressing

such violations. The Expedited Penalty Agreement program is a flexible program that will be continually expanded to accommodate minor to moderate violations of the regulations. This Rule promulgates the provisions in Emergency Rule MM004E3, which was effective on March 15, 2008, and published in the March 20, 2008, issue of the *Louisiana Register*. The basis and rationale for this proposed Rule are to abate the delay in correcting minor and moderate violations of the Environmental Quality Act to achieve expeditious protection of the public health and the environment. This proposed Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33

ENVIRONMENTAL QUALITY

Part I. Office of the Secretary

Subpart 1. Departmental Administrative Procedures

Chapter 8. Expedited Penalty Agreement

§801. Definitions

LAR050000—an LPDES multi-sector storm water general permit.

LAR100000—an LPDES storm water general permit associated with construction activity greater than 5 acres.

LPDES General Permit—for the purposes of this Chapter, any Louisiana Pollutant Discharge Elimination System Permit in the LAG530000, LAG540000, or LAG750000 series.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2025(D).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 32:2242 (December 2006), amended by the Office of the Secretary, Legal Affairs Division, LR 34:

§807. Types of Violations and Expedited Penalty Amounts

A. The types of violations listed in the following table may qualify for coverage under this Chapter; however, any violation listed below, which is identified in an expedited penalty agreement, must also meet the conditions set forth in LAC 33:I.805.E.

Expedited Penalties			
All Media			
Violation	Citation	Amount	Frequency

[See Prior Text]			

Expedited Penalties			
Air Quality			
Violation	Citation	Amount	Frequency
Failure to timely submit any applicable Specific Condition or General Condition report as specified in a minor source permit.	LAC 33:III.501.C.4	\$250	Per occurrence

Expedited Penalties			
Air Quality			
Violation	Citation	Amount	Frequency
Failure to timely submit any applicable Specific Condition or General Condition report (other than those specified elsewhere in this Section) as specified in a Part 70 (Title V) air permit.	LAC 33:III.501.C.4	\$350	Per occurrence
40 CFR Part 70 General Permit conditions (Part K, L, M, or R): Failure to timely submit any applicable annual, semiannual, or quarterly report.	LAC 33:III.501.C.4	\$500	Per occurrence
Failure to submit an updated Emission Point List, Emissions Inventory Questionnaire (EIQ), emissions calculations, and certification statement as described in LAC 33:III.517.B.1 within seven calendar days after effecting any modification to a facility authorized to operate under a standard oil and gas permit.	LAC 33:III.501.C.4	\$750	Per occurrence/ emission point
Failure to submit the Title V permit renewal application at least six months prior to the date of expiration, applicable only when the renewal application is submitted prior to permit expiration and a renewal permit is issued on or before the expiration date.	LAC 33:III.507.E.4	\$1,000	Per occurrence
Failure to provide notice of change of ownership within 45 days after the change.	LAC 33:III.517.G	\$200	Per occurrence
Failure to submit an Annual Criteria Pollutant Emissions Inventory in a timely and complete manner when applicable.	LAC 33:III.919	\$500	Per occurrence
Control of Fugitive Emissions, sandblasting facilities: Failure to take all reasonable precautions to prevent particulate matter from becoming airborne.	LAC 33:III.1305.A	\$250	Per occurrence

Expedited Penalties			
Air Quality			
Violation	Citation	Amount	Frequency
Failure to maintain records for glycol dehydrators subject to LAC 33:III.2116.	LAC 33:III.2116.F	\$250	Per occurrence
Failure to submit an Annual Toxic Emissions Data Inventory in a timely and complete manner when applicable.	LAC 33:III.5107	\$500	Per occurrence
Failure to submit an initial perchloroethylene inventory report.	LAC 33:III.5307.A	\$250	Per occurrence
Failure to submit a perchloroethylene usage report by July 1 for the preceding calendar year.	LAC 33:III.5307.B	\$250	Per occurrence

Expedited Penalties			
Hazardous Waste—Used Oil			
Violation	Citation	Amount	Frequency
*** [See Prior Text]			

Expedited Penalties			
Air Quality—Stage II Vapor Recovery			
Violation	Citation	Amount	Frequency
Note: LAC 33:III.2132 is only applicable to subject gasoline dispensing facilities in the parishes of Ascension, East Baton Rouge, West Baton Rouge, Iberville, Livingston, and Pointe Coupee.			
Failure to use and/or diligently maintain, in proper working order, all air pollution control equipment installed at the site.	LAC 33:III.905	\$300	Per occurrence
Failure to submit an application to the administrative authority prior to installation of the Stage II vapor recovery system.	LAC 33:III.2132.B.6	\$500	Per occurrence
Failure to have at least one person trained as required by the regulations.	LAC 33:III.2132.C	\$300	Per occurrence
Failure to test the vapor recovery system prior to start-up of the facility and annually thereafter.	LAC 33:III.2132.D	\$750	Per occurrence
Failure to post operating instructions on each pump.	LAC 33:III.2132.E	\$100	Per occurrence
Failure to maintain equipment and tag defective equipment "out of order."	LAC 33:III.2132.F.1 and 3-4	\$500	Per inspection
Failure to perform daily inspections and accurately record results.	LAC 33:III.2132.F.2	\$300	Per inspection
Failure to maintain records on-site for at least two years and present them to an authorized representative upon request.	LAC 33:III.2132.G.1-7	\$200	Per compliance inspection

Expedited Penalties			
Solid Waste			
Violation	Citation	Amount	Frequency
Unauthorized on-site disposal of regulated solid waste generated at the site by the owner, lessee, or other person having an actual right, title, or interest in the property.	LAC 33:VII.315.C	\$250	Per occurrence
Unauthorized disposal of solid waste by the generator at an off-site location not permitted to receive such waste.	LAC 33:VII.315.C	\$250	Per occurrence
Operation of an unauthorized disposal site where solid waste is disposed.	LAC 33:VII.315.C	\$1,000	Per occurrence
An owner, lessee, or other person having an actual right, title, or interest in the property of an unauthorized disposal site in which solid waste is disposed.	LAC 33:VII.315.C	\$1,000	Per occurrence
Failure to report any discharge, deposit, injection, spill, dumping, leaking, or placing of solid waste into or on the water, air, or land.	LAC 33:VII.315.F	\$500	Per occurrence
Open burning of solid waste as prohibited by regulation.	LAC 33:VII.315.M	\$250	Per occurrence
Offering residential solid waste to an unauthorized transporter and/or a facility not permitted to receive such waste.	LAC 33:VII.315.O	\$250	Per occurrence
Offering commercial solid waste and/or construction and demolition debris to an unauthorized transporter and/or a facility not permitted to receive such waste.	LAC 33:VII.315.O	\$500	Per occurrence

Expedited Penalties			
Solid Waste			
Violation	Citation	Amount	Frequency
Offering industrial solid waste to an unauthorized transporter and/or a facility not permitted to receive such waste.	LAC 33:VII.315.O	\$750	Per occurrence
Failure to notify the department of generating, transporting, processing, or disposing of solid waste.	LAC 33:VII.401.A	\$300	Per occurrence
Transportation of solid waste to a processing or disposal facility not permitted to receive such waste.	LAC 33:VII.505.D	\$1,000	Per occurrence

Expedited Penalties			
Solid Waste—Waste Tires			
Violation	Citation	Amount	Frequency
Storage of more than 20 whole tires without authorization from the administrative authority.	LAC 33:VII.10509.B	\$200	Per occurrence
Transporting more than 20 tires without first obtaining a transporter authorization certificate.	LAC 33:VII.10509.C	\$300	Per occurrence
Storing tires for greater than 365 days.	LAC 33:VII.10509.E	\$200	Per occurrence
Failure to maintain all required records for three years on-site or at an alternative site approved in writing by the administrative authority.	LAC 33:VII.10509.G; 10519.O and P	\$200	Per occurrence
Failure to obtain a waste tire generator identification number within 30 days of commencing business operations.	LAC 33:VII.10519.A	\$300	Per occurrence
Failure to accept one waste tire for every new tire sold unless the purchaser chooses to keep the waste tire.	LAC 33:VII.10519.B	\$100	Per occurrence
Failure to collect appropriate waste tire fee for each tire sold.	LAC 33:VII.10519.C; 10521.B; 10535.B	\$200	Per occurrence
Failure to remit waste tire fees to the state on a monthly basis as specified.	LAC 33:VII.10519.D; 10521.C	\$200	Per occurrence
Failure to post required notifications to the public.	LAC 33:VII.10519.E; 10521.D	\$100	Per occurrence

Expedited Penalties			
Solid Waste—Waste Tires			
Violation	Citation	Amount	Frequency
Failure to list the waste tire fee on a separate line on the invoice so that no tax will be charged on the fee.	LAC 33:VII.10519.F; 10521.E	\$100	Per occurrence
Failure to keep waste tires or waste tire material covered as specified.	LAC 33:VII.10519.H; 10521.H	\$200	Per occurrence
Storing waste tires for more than 120 days without complying with the exceptions for the extended storage time.	LAC 33:VII.10519.I	\$200	Per occurrence
Failure to use an authorized transporter for removal of tires from a place of business.	LAC 33:VII.10519.K	\$500	Per occurrence
Failure to segregate waste tires from new or used tires offered for sale.	LAC 33:VII.10519.M	\$200	Per occurrence
Failure of a motor vehicle dealer to notify administrative authority within 30 days of commencing business operations.	LAC 33:VII.10521.A	\$300	Per occurrence
Failure to submit application and fees for transporter authorization.	LAC 33:VII.10523.A	\$300	Per occurrence
Failure to use a manifest when transporting greater than 20 waste tires.	LAC 33:VII.10523.C	\$200	Per occurrence
Failure of transporter to transport all waste tires to an authorized collection center or a permitted processing facility.	LAC 33:VII.10523.D	\$1,000	Per occurrence
Failure of out-of-state or out-of-country transporter to comply with state waste tire regulations.	LAC 33:VII.10523.E	\$200	Per occurrence
Failure to affix to driver's door and passenger's door the authorization certificate number, 3 inches in height.	LAC 33:VII.10523.F	\$100	Per occurrence
Failure to provide notification in writing within 10 days when any information on the authorization certificate form changes, or if the business closes and ceases transporting waste tires.	LAC 33:VII.10523.G	\$100	Per occurrence

Expedited Penalties			
Solid Waste—Waste Tires			
Violation	Citation	Amount	Frequency
Acceptance by a processor of more than five unmanifested tires per day per customer.	LAC 33:VII.10525.A.2	\$300	Per occurrence
Failure of a processor to maintain a log for all unmanifested loads.	LAC 33:VII.10525.A.2	\$200	Per occurrence
Failure to meet any of the facility standards listed in LAC 33:VII.10525.D.	LAC 33:VII.10525.D	\$300	Per occurrence
Failure by a collector or collection center to follow the requirements for receipt of tires.	LAC 33:VII.10527.A	\$200	Per occurrence
Failure of collection center operator to meet the standards in LAC 33:VII.10525.D.1-10 and 12-24.	LAC 33:VII.10527.B	\$300	Per occurrence
A collector or collection center exceeding the storage limit of waste tires or waste tire material.	LAC 33:VII.10527.C; 10531.C	\$300	Per occurrence
Failure of recycler to provide notification of its existence and obtain an identification number.	LAC 33:VII.10531.A	\$300	Per occurrence
Failure of a waste tire or waste tire material recycler to meet the requirements of LAC 33:VII.10525.D.	LAC 33:VII.10531.B	\$300	Per occurrence
Failure to provide a manifest for all waste tire shipments containing more than 20 tires.	LAC 33:VII.10533.A	\$200	Per occurrence
Failure to follow the requirements for manifest discrepancies.	LAC 33:VII.10533.C	\$300	Per occurrence
Failure to maintain completed manifests for three years and have them available for inspection.	LAC 33:VII.10533.D	\$200	Per occurrence

Expedited Penalties			
Water Quality			
Violation	Citation	Amount	Frequency
Failure to develop a Spill Prevention and Control (SPC) plan for any applicable facility.	LAC 33:IX.905	\$500	Per occurrence
Failure to implement any component of an SPC plan.	LAC 33:IX.905	\$100	Per occurrence

Expedited Penalties			
Water Quality			
Violation	Citation	Amount	Frequency
Unauthorized discharge of oily fluids.	LAC 33:IX.1701.B	\$1,000	Per occurrence
Unauthorized discharge of oil field wastes, including produced water.	LAC 33:IX.1901.A	\$1,000	Per occurrence
Failure to submit a Notice of Intent for coverage under the LAR050000 or LAR100000 LPDES Storm Water General Permit.	LAC 33:IX.2511.C.1	\$1,000	Per occurrence
Failure to comply with any portion(s) of an LPDES LAG530000 Schedule A permit.	LAC 33:IX.2701.A	\$200 and completion of a department-sponsored compliance class	10 or fewer violations
Failure to comply with any portion(s) of an LPDES LAG530000 Schedule A permit.	LAC 33:IX.2701.A	\$400 and completion of a department-sponsored compliance class	More than 10 violations
Failure to comply with any portion(s) of an LPDES LAG530000 Schedule B permit.	LAC 33:IX.2701.A	\$300 and completion of a department-sponsored compliance class	10 or fewer violations
Failure to comply with any portion(s) of an LPDES LAG530000 Schedule B permit.	LAC 33:IX.2701.A	\$500 and completion of a department-sponsored compliance class	More than 10 violations
Failure to comply with any portion(s) of an LPDES LAG540000 permit.	LAC 33:IX.2701.A	\$400 and completion of a department-sponsored compliance class	10 or fewer violations
Failure to comply with any portion(s) of an LPDES LAG540000 permit.	LAC 33:IX.2701.A	\$600 and completion of a department-sponsored compliance class	More than 10 violations
Failure to comply with any portion(s) of an LPDES LAG750000 permit.	LAC 33:IX.2701.A	\$400 and completion of a department-sponsored compliance class	10 or fewer violations
Failure to comply with any portion(s) of an LPDES LAG750000 permit.	LAC 33:IX.2701.A	\$600 and completion of a department-sponsored compliance class	More than 10 violations

Expedited Penalties			
Water Quality			
Violation	Citation	Amount	Frequency
Failure to comply with monitoring requirements of LPDES Storm Water General Permits LAR050000 and LAR100000.	LAC 33:IX.2701.A	\$300	Per occurrence
Failure to submit certain reports as required by any LPDES permit not previously defined as an LPDES General Permit in LAC 33:I.801, including noncompliance reports, storm water reports, pretreatment reports, biomonitoring reports, overflow reports, construction schedule progress reports, environmental audit reports as required by a municipal pollution prevention plan, and toxicity reduction evaluation reports.	LAC 33:IX.2701.A	\$300	Per required submittal
Failure to prepare and/or implement any portion or portions of a Storm Water Pollution Prevention Plan (SWPPP), a Pollution Prevention Plan (PPP), or a Best Management Practices (BMP) Plan as required by any LPDES permit not previously defined as an LPDES General Permit in LAC 33:I.801.	LAC 33:IX.2701.A	\$500	Per occurrence

Expedited Penalties			
Underground Storage Tanks			
Violation	Citation	Amount	Frequency
Failure to register an existing or new UST containing a regulated substance.	LAC 33:XI.301.A-B	\$300	Per inspection
Failure to certify and provide required information on the department's approved registration form.	LAC 33:XI.301.B.1-2	\$200	Per inspection

Expedited Penalties			
Underground Storage Tanks			
Violation	Citation	Amount	Frequency
Failure to provide notification within 30 days after selling a UST system or acquiring a UST system; failure to keep a current copy of the registration form on-site or at the nearest staffed facility.	LAC 33:XI.301.C.1-3	\$300	Per inspection
Allowing a regulated substance to be placed into a new UST system that has not been registered.	LAC 33:XI.301.C.4	\$300	Per inspection
Failure to provide corrosion protection to tanks that routinely contain regulated substances using one of the specified methods.	LAC 33:XI.303.B.1	\$500 and completion of a department-sponsored compliance class	Per inspection
Failure to provide corrosion protection to piping that routinely contains regulated substances using one of the specified methods.	LAC 33:XI.303.B.2	\$500 and completion of a department-sponsored compliance class	Per inspection
Failure to provide corrosion protection to flex hoses and/or sub-pumps that routinely contain regulated substances using one of the specified methods.	LAC 33:XI.303.B.2	\$500 and completion of a department-sponsored compliance class	Per inspection
Failure to provide spill and/or overflow prevention equipment as specified.	LAC 33:XI.303.B.3	\$300 and completion of a department-sponsored compliance class	Per inspection
Failure to ensure that the individual exercising supervisory control over installation-critical junctures is certified in accordance with LAC 33:XI.Chapter 13.	LAC 33:XI.303.B.4.b.ii	\$1,000	Per occurrence
Failure to upgrade an existing UST system to new system standards as specified.	LAC 33:XI.303.C	\$1,300 and completion of a department-sponsored compliance class	Per inspection
Failure to pay fees by the required date.	LAC 33:XI.307.D	\$200	Per inspection

Expedited Penalties			
Underground Storage Tanks			
Violation	Citation	Amount	Frequency
Failure to report any spill and/or overfill.	LAC 33:XI.501.C	\$500	Per inspection
Failure to investigate and/or clean up any spill and/or overfill.	LAC 33:XI.501.C	\$1,500	Per inspection
Failure to continuously operate and maintain corrosion protection to the metal components of portions of the tank and piping that routinely contain regulated substances and are in contact with the ground or water.	LAC 33:XI.503.A.1	\$300 and completion of a department-sponsored compliance class	Per inspection
Failure to have a UST system equipped with a cathodic protection system inspected for proper operation as specified.	LAC 33:XI.503.A.2	\$300 and completion of a department-sponsored compliance class	Per inspection
Failure to inspect a UST system with an impressed current cathodic protection system every 60 days to ensure that the equipment is running properly.	LAC 33:XI.503.A.3	\$300 and completion of a department-sponsored compliance class	Per inspection
Failure to comply with recordkeeping requirements.	LAC 33:XI.503.B	\$200 and completion of a department-sponsored compliance class	Per inspection
Failure to meet requirements for repairs to UST systems.	LAC 33:XI.507	\$300	Per inspection
Failure to ensure that the individual exercising supervisory control over repair-critical junctures is certified.	LAC 33:XI.507.A.2	\$1,000	Per occurrence
Failure to maintain required information and/or keep records at the UST site and make them immediately available or keep them at an alternative site and provide them after a request.	LAC 33:XI.509.B and C	\$200 and completion of a department-sponsored compliance class	Per inspection
Failure to meet the performance requirements when performing release detection required in LAC 33:XI.703.	LAC 33:XI.701; 703.A.2.b and c	\$750 and completion of a department-sponsored compliance class	Per inspection

Expedited Penalties			
Underground Storage Tanks			
Violation	Citation	Amount	Frequency
Failure to use a method or combination of methods of release detection described in LAC 33:XI.701 for all new or existing tank systems.	LAC 33:XI.703.A.1	\$1,500 and completion of a department-sponsored compliance class	Per inspection
Failure to monitor tanks for releases as specified.	LAC 33:XI.703.B.1	\$350 and completion of a department-sponsored compliance class	Per inspection
Failure to monitor underground piping for releases as specified.	LAC 33:XI.703.B.2	\$750 and completion of a department-sponsored compliance class	Per inspection
Failure to maintain release detection records.	LAC 33:XI.705	\$200 and completion of a department-sponsored compliance class	Per inspection
Failure to report any suspected release within 24 hours after becoming aware of the occurrence or when a leak detection method indicates that a release may have occurred.	LAC 33:XI.703.A.3 or 707	\$500 and completion of a department-sponsored compliance class	Per occurrence
Failure to investigate and confirm any suspected release of a regulated substance that requires reporting under LAC 33:XI.707 within seven days.	LAC 33:XI.711	\$1,500	Per occurrence
Failure to maintain corrosion protection and/or release detection on a UST system that is temporarily closed and contains more than 2.5 cm (1 inch) of residue, or 0.3 percent by weight of the total capacity of the UST system.	LAC 33:XI.903.A	\$500 and completion of a department-sponsored compliance class	Per inspection
Failure to comply with permanent closure and/or changes in service procedures.	LAC 33:XI.905	\$500	Per inspection
Failure to use a certified worker for tank closure.	LAC 33:XI.905.A.2	\$1,000	Per inspection

Expedited Penalties			
Underground Storage Tanks			
Violation	Citation	Amount	Frequency
Failure to assess the site at closure or change-in-service where contamination is most likely to be present.	LAC 33:XI.907.A	\$500	Per occurrence
Failure to submit the assessment in duplicate within 60 days following permanent closure or change-in-service.	LAC 33:XI.907.A	\$500	Per occurrence
Failure to begin corrective action of contaminated soils, contaminated groundwater, or free product discovered through methods in LAC 33:XI.907.A, in accordance with LAC 33:XI.715.	LAC 33:XI.907.B	\$1,500	Per occurrence

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2025(D).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 32:2243 (December 2006), amended by the Office of the Secretary, Legal Affairs Division, LR 34:

Part VII. Solid Waste

Subpart 1. Solid Waste Regulations

Chapter 1. General Provisions and Definitions

§115. Definitions

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

* * *

Transport—to move solid waste off-site to a non-processing transfer station or a collection, processing, or disposal facility.

Transporter—any person who moves solid waste off-site to a non-processing transfer station or a collection, processing, or disposal facility, excluding individuals who transport their own residential waste to a collection facility, non-processing transfer station, or permitted processing facility and/or solid waste landfill.

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 22:279 (April 1996), amended by the Office of Waste Services, Solid Waste Division, LR 23:1145 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2514, 2609 (November 2000), amended by the Office of Environmental Assessment, LR 31:1576 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1019 (June 2007), LR 34:

Chapter 3. Scope and Mandatory Provisions of the Program

§315. Mandatory Provisions

A. - N.2. . . .

O. Generators shall not offer solid waste to transporters, processing facilities, or disposal facilities that have not received authorization and/or the required permits necessary to receive and/or manage the generator's solid waste.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 19:1143 (September 1993), LR 19:1315 (October 1993), repromulgated LR 19:1421 (November 1993), amended LR 22:279 (April 1996), amended by the Office of Waste Services, Solid Waste Division, LR 23:954 (August 1997), LR 23:1145 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2516 (November 2000), LR 30:1675 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2487 (October 2005), LR 33:1030 (June 2007), LR 34:

Part XI. Underground Storage Tanks

Chapter 7. Methods of Release Detection and Release Reporting, Investigation, Confirmation, and Response

§703. Requirements for Use of Release Detection Methods

A. Requirements for All UST Systems

1. Owners and operators of all new and existing UST systems must use a method or combination of the methods of release detection described in LAC 33:XI.701.

2. The method of release detection used must also meet the following requirements.

a. The release detection method used must be capable of detecting a release from any portion of the tank and the connected underground piping that routinely contains product.

b. The release detection system must be installed, calibrated, operated, and maintained in accordance with the manufacturer's instructions, including routine maintenance and service checks for operability or running condition.

c. The release detection system must meet the performance requirements in LAC 33:XI.701.A or B, with any performance claims and their manner of determination described in writing by the equipment manufacturer or installer. In addition, methods used after the date shown in the following table corresponding with the specified method, except for methods permanently installed before that date and in compliance with LAC 33:XI.701, must be capable of detecting the leak rate or quantity specified for that method in LAC 33:XI.701.A.2, 3, and 4 or B.1 and 2 (as shown in the table below) with a probability of detection (Pd) of at least 0.95 and a probability of false alarm (Pfa) of no greater than 0.05.

Method	Section	Date after Which Pd/Pfa Must Be Demonstrated
Manual Tank Gauging	LAC 33:XI.701.A.2	December 22, 1990
Tank Tightness Testing	LAC 33:XI.701.A.3	December 22, 1990

Method	Section	Date after Which Pd/Pfa Must Be Demonstrated
Automatic Tank Gauging	LAC 33:XI.701.A.4	December 22, 1990
Automatic Line Leak Detectors	LAC 33:XI.701.B.1	September 22, 1991
Line Tightness Testing	LAC 33:XI.701.B.2	December 22, 1990

3. When a release detection method operated in accordance with the performance standards in LAC 33:XI.701.A and B indicates that a release may have occurred, owners and operators must notify the Office of Environmental Compliance in accordance with LAC 33:XI.707-713.

4. Owners and operators of all UST systems must comply with the release detection requirements of LAC 33:XI.701-705 by December 22 of the year listed in the following table.

Schedule for Phase-In of Release Detection					
Year System Was Installed	Year When Release Detection Is Required (By December 22 of the year indicated)				
	1989	1990	1991	1992	1993
Before 1965 or date unknown	RD	P			
1965-69		P/RD			
1970-74		P	RD		
1975-79		P		RD	
1980-88		P			RD
New Tanks	Immediately upon installation.				
P = Must begin release detection for all pressurized piping in accordance with LAC 33:XI.703.B.2.a.					
RD = Must begin release detection for tanks and suction piping in accordance with LAC 33:XI.703.B.1, 2.b, and C.					

5. Any existing UST system that cannot apply a method of release detection that complies with the requirements of LAC 33:XI.701-705 must complete the closure procedures in LAC 33:XI.Chapter 9 by the date on which release detection is required for that UST system under Paragraph A.4 of this Section.

B. - C.2.e.iii. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2559 (November 2000), amended by the Office of Environmental Assessment, LR 31:1073 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2172 (October 2007), LR 34:

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

A public hearing will be held on May 27, 2008, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 North Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Parking in the Galvez Garage is free with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by MM004. Such comments must be received no later than June 3, 2008, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of MM004. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Baratavia Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM
Executive Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Expedited Penalty Agreement**

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

The proposed rule will enhance the current Expedited Penalty Agreement program with no additional cost. The program has already produced a significant decrease in the backlog of enforcement action referrals for the minor and moderate categories of violations this proposed rule addresses. Many prior enforcement referrals for minor and moderate violations had not been addressed in a timely manner due to more complex enforcement issues taking precedence. The ability to address these classes of violations with expedited penalty agreements has resulted in savings in staff time and paperwork.

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

The violations being added to the Expedited Penalty Agreement program by the proposed rule do not impose high-value penalties, and, experience has shown, will have a higher rate of collection as a result of the Expedited Penalty Agreement program. Therefore, there will be a minimal increase in revenue to the department.

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

No new costs will occur as a result of this proposed rule. The expedited enforcement process benefits regulated entities by reducing staff time in paperwork response and legal fees addressing formal enforcement actions for minor violations.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition or employment will result from this proposed rule.

Herman Robinson, CPM
Executive Counsel
0804#092

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

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

Medical Use of Byproduct
Material—Recognition of Specialty Boards
(LAC 33:XV.102, 725, 729, 731, and 763)(RP045ft)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Radiation Protection regulations, LAC 33:XV.102, 725, 729, 731, and 763 (Log #RP045ft).

This proposed Rule is identical to federal regulations found in 10 CFR Part 35, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3550 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the proposed Rule. This Rule will be promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

This Rule will update the state radiation regulations to coincide with amendments in the federal regulations modifying the training and experience requirements relating to the recognition of specialty board certifications by the NRC and agreement states. This Rule provides the criteria that specialty boards have to meet before they can be recognized by the NRC or agreement states. Amendments to the *Code of Federal Regulations* in 10 CFR Part 35 have been completed regarding the training and experience requirements of a radiation safety officer. Louisiana is required to adopt or amend the state radiation regulations pertaining to the training and experience requirements of a radiation safety officer in order to maintain an adequate agreement state program. The basis and rationale for this rule are to mirror the federal regulations and maintain an adequate agreement state program. This proposed Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

**Title 33
ENVIRONMENTAL QUALITY
Part XV. Radiation Protection**

Chapter 1. General Provisions

§102. Definitions and Abbreviations

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

* * *

Authorized Medical Physicist—an individual who meets the requirements in LAC 33:XV.763.J.1 and M, or who is identified as an authorized medical physicist or teletherapy physicist on:

- 1. - 4. ...

* * *

Preceptor—an individual who provides, directs, or verifies the training and experience required for an individual to become an authorized user, an authorized

medical physicist, an authorized nuclear pharmacist, or a radiation safety officer.

* * *

Radiation Safety Officer—an individual who:

- 1. meets the requirements in LAC 33:XV.763.A.1 or 3.a and M; or
- 2. is identified as a *radiation safety officer* on:
 - a. a specific medical use license issued by the agreement state or Nuclear Regulatory Commission; or
 - b. a medical use permit issued by a Nuclear Regulatory Commission master material licensee.

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), LR 19:1421 (November 1993), LR 20:650 (June 1994), LR 22:967 (October 1996), LR 24:2089 (November 1998), repromulgated LR 24:2242 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2563 (November 2000), LR 26:2767 (December 2000), LR 30:1171, 1188 (June 2004), amended by the Office of Environmental Assessment, LR 31:44 (January 2005), LR 31:1064 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:811 (May 2006), LR 32:1853 (October 2006), LR 33:1016 (June 2007), LR 33:2175 (October 2007), LR 34:

**Chapter 7. Use of Radionuclides in the Healing Arts
§725. Release of Individuals Containing
Radiopharmaceuticals or Permanent Implants**

A. A licensee may authorize the release from its control of any individual who has been administered unsealed byproduct material or implants containing byproduct material if the total effective dose equivalent to any other individual from exposure to the released individual is not likely to exceed 5 millisieverts (0.5 rem).

NOTE: The current revision of NUREG-1556, Vol. 9, "Consolidated Guidance About Materials Licenses: Program-Specific Guidance About Medical Licenses," describes methods for calculating doses to other individuals and contains tables of activities not likely to cause doses exceeding 5 mSv (0.5 rem).

B. A licensee shall provide the released individual, or the individual's parent or guardian, with instructions, including written instructions, on actions recommended to maintain doses to other individuals as low as is reasonably achievable if the total effective dose equivalent to any other individual is likely to exceed 1 millisievert (0.1 rem). If the total effective dose equivalent to a breast-feeding infant or child could exceed 1 millisievert (0.1 rem) assuming there were no interruption of breast-feeding, the instructions shall also include:

- 1. guidance on the interruption or discontinuation of breast-feeding; and
- 2. information on the potential consequences, if any, of failure to follow the guidance.

C. The licensee shall maintain a record of the basis for authorizing the release of an individual in accordance with Subsections A and B of this Section for three years after the date of release of the individual, if the total effective dose equivalent is calculated by:

- 1. - 4. ...

D. The licensee shall maintain a record for three years after the date of release of the individual that the instructions

required by Subsection B of this Section were provided to a breast-feeding woman if the radiation dose to the infant or child from continued breast-feeding could result in a total effective dose equivalent exceeding 5 millisieverts (0.5 rem).

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2104 (November 1998), amended by the Office of the Secretary, Legal Affairs Division, LR 34:

§729. Use of Radiopharmaceuticals for Uptake, Dilution, or Excretion Studies

A. - C.1. ...

2. prepared by an authorized nuclear pharmacist; a physician who is an authorized user and who meets the requirements specified in LAC 33:XV.763.D, or E.1 and D.3.a.ii.(f), or, before October 24, 2005, LAC 33:XV.763.D; or an individual under the supervision of either as specified in LAC 33:XV.709;

3. - 4. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2104 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:1177 (June 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 34:

§731. Use of Radiopharmaceuticals, Generators, and Reagent Kits for Imaging and Localization Studies

A. - G.4. ...

H. Use of Unsealed Byproduct Material for Imaging and Localization Studies for Which a Written Directive Is Not Required

1. Except for quantities that require a written directive under LAC 33:XV.777.B, a licensee may use any unsealed byproduct material prepared for medical use for imaging and localization studies that is:

a. obtained from a manufacturer or preparer licensed under LAC 33:XV.328.J or equivalent agreement state requirements; or

b. prepared by:

i. an authorized nuclear pharmacist;

ii. a physician who is an authorized user and who meets the requirements specified in LAC 33:XV.763.D, or E.1 and D.3.a.ii.(f); or

iii. an individual under the supervision, as specified in LAC 33:XV.709, of the authorized nuclear pharmacist in Clause H.1.b.i of this Section or the physician who is an authorized user in accordance with Clause H.1.b.ii of this Section;

c. obtained from and prepared by an NRC or agreement state licensee for use in research in accordance with a Radioactive Drug Research Committee-approved protocol or an Investigational New Drug (IND) protocol accepted by the FDA; or

d. prepared by the licensee for use in research in accordance with a Radioactive Drug Research Committee-approved application or an IND protocol accepted by the FDA.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2104 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2589 (November 2000), LR 27:1238 (August 2001), LR 30:1178 (June 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 34:

§763. Training

A. Training for a Radiation Safety Officer. Except as provided in Subsection B of this Section, the licensee shall require an individual fulfilling the responsibilities of the radiation safety officer as provided in LAC 33:XV.706 to be an individual:

1. who is certified by a specialty board whose certification process has been recognized by the commission or an agreement state, and who meets the requirements in Paragraphs A.4 and 5 of this Section. (The names of board certifications that have been recognized by the commission or an agreement state will be posted on the NRC's web page.) To have its certification process recognized, a specialty board shall require all candidates for certification to:

a. meet the requirements of Clauses A.1.a.i-iii of this Section, as follows:

i. hold a bachelor's or graduate degree from an accredited college or university in physical science or engineering or biological science with a minimum of 20 college credits in physical science;

ii. have five or more years of professional experience in health physics (graduate training may be substituted for no more than two years of the required experience) including at least three years in applied health physics; and

iii. pass an examination administered by diplomates of the specialty board, which evaluates knowledge and competence in radiation physics and instrumentation, radiation protection, mathematics pertaining to the use and measurement of radioactivity, radiation biology, and radiation dosimetry; or

b. meet the requirements of Clauses A.1.b.i-iii of this Section, as follows:

i. hold a master's or doctor's degree in physics, medical physics, another physical science, engineering, or applied mathematics from an accredited college or university;

ii. have two years of full-time practical training and/or supervised experience in medical physics:

(a) under the supervision of a medical physicist who is certified in medical physics by a specialty board recognized by the commission or an agreement state; or

(b) in a clinical nuclear medicine facility providing diagnostic and/or therapeutic services under the direction of a physician who meets the requirements for an authorized user in Subsection D or Paragraph E.1 of this Section; and

iii. pass an examination, administered by diplomates of the specialty board, that assesses knowledge and competence in clinical diagnostic radiological or nuclear medicine physics and in radiation safety; or

2. who has completed a structured educational program consisting of both:

a. 200 hours of classroom and laboratory training in the following areas:

- i. radiation physics and instrumentation;
- ii. radiation protection;
- iii. mathematics pertaining to the use and measurement of radioactivity;
- iv. radiation biology; and
- v. radiation dosimetry; and

b. one year of full-time radiation safety experience under the supervision of the individual identified as the radiation safety officer on a commission or agreement state license or permit issued by a commission master material licensee that authorizes similar type(s) of use(s) of byproduct material involving the following:

- i. shipping, receiving, and performing related radiation surveys;
- ii. using and performing checks for proper operation of instruments used to determine the activity of dosages, survey meters, and instruments used to measure radionuclides;
- iii. securing and controlling byproduct material;
- iv. using administrative controls to avoid mistakes in the administration of byproduct material;
- v. using procedures to prevent or minimize radioactive contamination and using proper decontamination procedures;
- vi. using emergency procedures to control byproduct material; and
- vii. disposing of byproduct material; or

c. Reserved.

3. who meets one of the following requirements:

a. is a medical physicist who has been certified by a specialty board whose certification process has been recognized by the commission or an agreement state in accordance with Subsection J of this Section, and who has experience in radiation safety for similar types of use of byproduct material for which the licensee is seeking the approval of the individual as radiation safety officer, and who meets the requirements in Paragraphs A.4 and 5 of this Section; or

b. is an authorized user, authorized medical physicist, or authorized nuclear pharmacist identified on the licensee's license and has experience with the radiation safety aspects of similar types of use of byproduct material for which the individual has radiation safety officer responsibilities; and

4. who has obtained written attestation, signed by a preceptor radiation safety officer, that the individual has satisfactorily completed the requirements in Paragraph A.5 and in Clauses A.1.a.i and ii or Clauses A.1.b.i and ii or Paragraph A.2 or Subparagraph A.3.a or b of this Section, and has achieved a level of radiation safety knowledge sufficient to function independently as a radiation safety officer for a medical use licensee; and

5. who has training in the radiation safety, regulatory issues, and emergency procedures for the types of use for which a licensee seeks approval. This training requirement may be satisfied by completing training that is supervised by a radiation safety officer, authorized medical physicist, authorized nuclear pharmacist, or authorized user, as

appropriate, who is authorized for the type(s) of use for which the licensee is seeking approval.

B. Training for Experienced Radiation Safety Officer, Teletherapy or Medical Physicist, Authorized Medical Physicist, Authorized User, Nuclear Pharmacist, and Authorized Nuclear Pharmacist

1. An individual identified as a radiation safety officer, a teletherapy or medical physicist, or a nuclear pharmacist on an agreement state or a Nuclear Regulatory Commission license or a permit issued by a commission or an agreement state broad scope licensee or master material license permit or by a master material license permittee of broad scope before October 24, 2002, need not comply with the training requirements of Subsection A, J, or K of this Section, respectively.

2. An individual identified as a radiation safety officer, an authorized medical physicist, or an authorized nuclear pharmacist on a commission or an agreement state license or a permit issued by a commission or an agreement state broad scope licensee or a master material license permit or by a master material license permittee of broad scope between October 24, 2002 and April 29, 2005, need not comply with the training requirements of Subsection A, J, or K of this Section, respectively.

3. A radiation safety officer, a medical physicist, or a nuclear pharmacist, who used only accelerator-produced radioactive materials, discrete sources of radium-226, or both, for medical uses or in the practice of nuclear pharmacy at a government agency or federally-recognized Indian tribe before November 30, 2007, or at any other location of use before August 8, 2009, or an earlier date as noticed by the NRC, need not comply with the training requirements of Subsection A, J, or K of this Section, respectively, when performing the same uses. A nuclear pharmacist, who prepared only radioactive drugs containing accelerator-produced radioactive materials, or a medical physicist, who used only accelerator-produced radioactive materials, at the locations and time period identified in this Paragraph, qualifies as an authorized nuclear pharmacist or an authorized medical physicist, respectively, for those materials and uses performed before these dates, for purposes of this Chapter.

4. A physician, dentist, or podiatrist identified as an authorized user for the medical use of byproduct material on a license issued by the commission or agreement state, a permit issued by a commission master material licensee, a permit issued by a commission or an agreement state broad scope licensee, or a permit issued by a commission master material license broad scope permittee before October 24, 2002, who performs only those medical uses for which he or she was authorized on that date need not comply with the training requirements of this Section.

5. A physician, dentist, or podiatrist identified as an authorized user for the medical use of byproduct material on a license issued by the commission or agreement state, a permit issued by a commission master material licensee, a permit issued by a commission or an agreement state broad scope licensee, or a permit issued by a commission master material license broad scope permittee who performs only those medical uses for which he or she was authorized between October 24, 2002 and April 29, 2005, need not comply with the training requirements of this Section.

6. A physician, dentist, or podiatrist who used only accelerator-produced radioactive materials, discrete sources of radium-226, or both, for medical uses performed at a government agency or federally-recognized Indian tribe before November 30, 2007, or at any other location of use before August 8, 2009, or an earlier date as noticed by the NRC, need not comply with the training requirements of this Section when performing the same medical uses. A physician, dentist, or podiatrist who used only accelerator-produced radioactive materials, discrete sources of radium-226, or both, for medical uses at the locations and time period identified in this Paragraph, qualifies as an authorized user for those materials and uses performed before these dates, for purposes of this Chapter.

C. Training for Uptake, Dilution, and Excretion Studies. Except as provided in Subsections B and L of this Section, the licensee shall require the authorized user of unsealed byproduct material for the uses authorized in LAC 33:XV.729 to be a physician:

1. who is certified by a medical specialty board whose certification process has been recognized by the commission or an agreement state, and who meets the requirements in Subparagraph C.3.b of this Section. (The names of board certifications that have been recognized by the commission or an agreement state will be posted on the NRC's web page.) To have its certification process recognized, a specialty board shall require all candidates for certification to:

a. complete 60 hours of training and experience in basic radionuclide handling techniques and radiation safety applicable to the medical use of unsealed byproduct material for uptake, dilution, and excretion studies that includes the topics listed in Clauses C.3.a.i-ii of this Section; and

b. pass an examination, administered by diplomates of the specialty board, that assesses knowledge and competence in radiation safety, radionuclide handling, and quality control; or

2. who is an authorized user under Subsection D or Paragraph E.1 of this Section, or equivalent agreement state requirements, or Subparagraph C.3.a of this Section;

3. who meets the following requirements:

a. has completed 60 hours of training and experience, including a minimum of eight hours of classroom and laboratory training, in basic radionuclide handling techniques applicable to the medical use of unsealed byproduct material for uptake, dilution, and excretion studies. The training and experience must include:

i. classroom and laboratory training in the following areas:

(a). radiation physics and instrumentation;

(b). radiation protection;

(c). mathematics pertaining to the use and measurement of radioactivity;

(d). chemistry of byproduct material for medical use; and

(e). radiation biology; and

ii. work experience, under the supervision of an authorized user who meets the requirements in Subsection C or D or Paragraph E.1 of this Section, or equivalent agreement state requirements, involving:

(a). ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;

(b). performing quality control procedures on instruments used to determine the activity of dosages and performing checks for proper operation of survey meters;

(c). calculating, measuring, and safely preparing patient or human research subject dosages;

(d). using administrative controls to prevent a medical event involving the use of unsealed byproduct material;

(e). using procedures to contain spilled byproduct material safely and using proper decontamination procedures; and

(f). administering dosages of radioactive drugs to patients or human research subjects; and

b. has obtained written attestation, signed by a preceptor authorized user who meets the requirements in Subsection C or D or Paragraph E.1 of this Section, or equivalent agreement state requirements, that the individual has satisfactorily completed the requirements in Subparagraph C.1.a or C.3.a of this Section and has achieved a level of competency sufficient to function independently as an authorized user for the medical uses authorized in LAC 33:XV.729.

D. Training for Imaging and Localization Studies. Except as provided in Subsections B and L of this Section, the licensee shall require the authorized user of unsealed byproduct material for the uses authorized in LAC 33:XV.731.H to be a physician:

1. who is certified by a medical specialty board whose certification process has been recognized by the commission or an agreement state, and who meets the requirements in Subparagraph D.3.b of this Section. (The names of board certifications that have been recognized by the commission or an agreement state will be posted on the NRC's web page.) To have its certification process recognized, a specialty board shall require all candidates for certification to:

a. complete 700 hours of training and experience in basic radionuclide handling techniques and radiation safety applicable to the medical use of unsealed byproduct material for imaging and localization studies that includes the topics listed in Clauses D.3.a.i-ii of this Section; and

b. pass an examination, administered by diplomates of the specialty board, that assesses knowledge and competence in radiation safety, radionuclide handling, and quality control; or

2. who is an authorized user under Paragraph E.1 of this Section, and meets the requirements in Subclause D.3.a.ii.(f) of this Section, or equivalent agreement state requirements; or

3. who meets the following requirements:

a. has completed 700 hours of training and experience, including a minimum of 80 hours of classroom and laboratory training, in basic radionuclide handling techniques applicable to the medical use of unsealed byproduct material for imaging and localization studies. The training and experience must include, at a minimum:

i. classroom and laboratory training in the following areas:

- (a). radiation physics and instrumentation;
- (b). radiation protection;
- (c). mathematics pertaining to the use and measurement of radioactivity;
- (d). chemistry of byproduct material for medical use; and
- (e). radiation biology; and

ii. work experience, under the supervision of an authorized user, who meets the requirements in this Subsection, or Subclause D.3.a.ii.(f) and Paragraph E.1 of this Section, or equivalent agreement state requirements, involving:

(a). ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;

(b). performing quality control procedures on instruments used to determine the activity of dosages and performing checks for proper operation of survey meters;

(c). calculating, measuring, and safely preparing patient or human research subject dosages;

(d). using administrative controls to prevent a medical event involving the use of unsealed byproduct material;

(e). using procedures to safely contain spilled radioactive material and using proper decontamination procedures;

(f). eluting generator systems appropriate for preparation of radioactive drugs for imaging and localization studies, measuring and testing the eluate for radionuclidic purity, and processing the eluate with reagent kits to prepare labeled radioactive drugs; and

(g). administering dosages of radioactive drugs to patients or human research subjects; and

b. has obtained written attestation, signed by a preceptor authorized user who meets the requirements in this Subsection, or Paragraph E.1 and Subclause D.3.a.ii.(f) of this Section, or equivalent agreement state requirements, that the individual has satisfactorily completed the requirements in Subparagraph D.1.a or D.3.a of this Section and has achieved a level of competency sufficient to function independently as an authorized user for the medical uses authorized in LAC 33:XV.729 and LAC 33:XV.731.H.

E. Therapeutic Use of Radiopharmaceuticals

1. Training for Use of Unsealed Byproduct Material for Which a Written Directive is Required. Except as provided in Subsection B of this Section, the licensee shall require the authorized user of unsealed byproduct material for the uses authorized in LAC 33:XV.735.C to be a physician:

a. who is certified by a medical specialty board whose certification process has been recognized by the commission or an agreement state, and who meets the requirements in Division E.1.b.i.(b).(vii) and Clause E.1.b.ii of this Section. (Specialty boards whose certification processes have been recognized by the commission or an agreement state will be posted on the NRC's web page.) To be recognized, a specialty board shall require all candidates for certification to:

i. successfully complete residency training in a radiation therapy or nuclear medicine training program or a

program in a related medical specialty. These residency training programs must include 700 hours of training and experience as described in Subclause E.1.b.i.(a) through Division E.1.b.i.(b).(v) of this Section. Eligible training programs must be approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education, the Royal College of Physicians and Surgeons of Canada, or the Committee on Post-Graduate Training of the American Osteopathic Association; and

ii. pass an examination, administered by diplomates of the specialty board, that tests knowledge and competence in radiation safety, radionuclide handling, quality assurance, and clinical use of unsealed byproduct material for which a written directive is required; or

b. who meets the following requirements:

i. has completed 700 hours of training and experience, including a minimum of 200 hours of classroom and laboratory training, in basic radionuclide handling techniques applicable to the medical use of unsealed byproduct material requiring a written directive. The training and experience must include:

(a). classroom and laboratory training in the following areas:

(i). radiation physics and instrumentation;

(ii). radiation protection;

(iii). mathematics pertaining to the use and measurement of radioactivity;

(iv). chemistry of byproduct material for medical use; and

(v). radiation biology; and

(b). work experience, under the supervision of an authorized user who meets the requirements in this Paragraph, or equivalent agreement state requirements. A supervising authorized user, who meets the requirements in Subparagraph E.1.b of this Section, must also have experience in administering dosages in the same dosage category or categories (i.e., Division E.1.b.i.(b).(vii) of this Section) as the individual requesting authorized user status. The work experience must involve:

(i). ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;

(ii). performing quality control procedures on instruments used to determine the activity of dosages and performing checks for proper operation of survey meters;

(iii). calculating, measuring, and safely preparing patient or human research subject dosages;

(iv). using administrative controls to prevent a medical event involving the use of unsealed byproduct material;

(v). using procedures to contain spilled byproduct material safely and using proper decontamination procedures;

(vi). Reserved.

(vii). administering dosages of radioactive drugs to patients or human research subjects involving a minimum of three cases in each of the following categories for which the individual is requesting authorized user status:

[a]. oral administration of less than or equal to 1.22 gigabecquerels (33 millicuries) of sodium iodide I-131, for which a written directive is required;

[b]. oral administration of greater than 1.22 gigabecquerels (33 millicuries) of sodium iodide I-131 (Experience with at least three such cases also satisfies the requirement in Subdivision E.1.b.i.(b).(vii).[a] of this Section.);

[c]. parenteral administration of any beta emitter, or a photon-emitting radionuclide with a photon energy less than 150 keV, for which a written directive is required; and/or

[d]. parenteral administration of any other radionuclide, for which a written directive is required; and

ii. has obtained written attestation that the individual has satisfactorily completed the requirements in Clause E.1.a.i and Division E.1.b.i.(b).(vii) or Clause E.1.b.i of this Section, and has achieved a level of competency sufficient to function independently as an authorized user for the medical uses authorized in LAC 33:XV.735.C. The written attestation must be signed by a preceptor authorized user who meets the requirements in this Paragraph or equivalent agreement state requirements. The preceptor authorized user who meets the requirements in Subparagraph E.1.b of this Section must have experience in administering dosages in the same dosage category or categories (i.e., Division E.1.b.i.(b).(vii) of this Section) as the individual requesting authorized user status.

2. Training for the Oral Administration of Sodium Iodide I-131 Requiring a Written Directive in Quantities Less Than or Equal To 1.22 Gigabecquerels (33 Millicuries). Except as provided in Subsection B of this Section, the licensee shall require an authorized user for the oral administration of sodium iodide I-131 requiring a written directive in quantities less than or equal to 1.22 gigabecquerels (33 millicuries) to be a physician:

a. who is certified by a medical specialty board whose certification process includes all of the requirements in Clauses E.2.c.i and ii of this Section and whose certification process has been recognized by the commission or an agreement state, and who meets the requirements in Clause E.2.c.iii of this Section. (The names of board certifications that have been recognized by the commission or an agreement state will be posted on the NRC's web page.); or

b. who is an authorized user in accordance with Paragraph E.1 of this Section for uses listed in Subdivision E.1.b.i.(b).(vii).[a] or [b] of this Section, Paragraph E.3 of this Section, or equivalent agreement state requirements; or

c. who meets the following requirements:

i. has successfully completed 80 hours of classroom and laboratory training, applicable to the medical use of sodium iodide I-131 for procedures requiring a written directive. The training must include:

(a). radiation physics and instrumentation;

(b). radiation protection;

(c). mathematics pertaining to the use and measurement of radioactivity;

(d). chemistry of byproduct material for medical use; and

(e). radiation biology; and

ii. has work experience, under the supervision of an authorized user who meets the requirements in Paragraph E.1, 2, or 3 of this Section, or equivalent agreement state

requirements. A supervising authorized user who meets the requirements in Subparagraph E.1.b of this Section must also have experience in administering dosages as specified in Subdivision E.1.b.i.(b).(vii).[a] or [b] of this Section. The work experience must involve:

(a). ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;

(b). performing quality control procedures on instruments used to determine the activity of dosages and performing checks for proper operation of survey meters;

(c). calculating, measuring, and safely preparing patient or human research subject dosages;

(d). using administrative controls to prevent a medical event involving the use of byproduct material;

(e). using procedures to contain spilled byproduct material safely and using proper decontamination procedures; and

(f). administering dosages to patients or human research subjects that includes at least three cases involving the oral administration of less than or equal to 1.22 gigabecquerels (33 millicuries) of sodium iodide I-131; and

iii. has obtained written attestation that the individual has satisfactorily completed the requirements in Clauses E.2.c.i and ii of this Section, and has achieved a level of competency sufficient to function independently as an authorized user for medical uses authorized in LAC 33:XV.735.C. The written attestation must be signed by a preceptor authorized user who meets the requirements in Paragraph E.1, 2, or 3 of this Section, or equivalent agreement state requirements. A preceptor authorized user who meets the requirement in Subparagraph E.1.b of this Section must also have experience in administering dosages as specified in Subdivision E.1.b.i.(b).(vii).[a] or [b] of this Section.

3. Training for the Oral Administration of Sodium Iodide I-131 Requiring a Written Directive in Quantities Greater Than 1.22 Gigabecquerels (33 Millicuries). Except as provided in Subsection B of this Section, the licensee shall require an authorized user for the oral administration of sodium iodide I-131 requiring a written directive in quantities greater than 1.22 Gigabecquerels (33 millicuries) to be a physician:

a. who is certified by a medical specialty board whose certification process includes all of the requirements in Clauses E.3.c.i and ii of this Section and whose certification process has been recognized by the commission or an agreement state, and who meets the requirements in Clause E.3.c.iii of this Section. (The names of board certifications that have been recognized by the commission or an agreement state will be posted on the NRC's web page.); or

b. who is an authorized user in accordance with Paragraph E.1 of this Section for uses listed in Subdivision E.1.b.i.(b).(vii).[b] of this Section, or equivalent agreement state requirements; or

c. who meets the following requirements:

i. has successfully completed 80 hours of classroom and laboratory training, applicable to the medical use of sodium iodide I-131 for procedures requiring a written directive. The training must include:

- (a). radiation physics and instrumentation;
- (b). radiation protection;
- (c). mathematics pertaining to the use and measurement of radioactivity;
- (d). chemistry of byproduct material for medical use; and

(e). radiation biology; and

ii. has work experience, under the supervision of an authorized user who meets the requirements in Paragraph E.1 or 3 of this Section, or equivalent agreement state requirements. A supervising authorized user who meets the requirements in Subparagraph E.1.b of this Section must also have experience in administering dosages as specified in Subdivision E.1.b.i.(b).(vii).[b] of this Section. The work experience must involve:

- (a). ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;
- (b). performing quality control procedures on instruments used to determine the activity of dosages and performing checks for proper operation of survey meters;
- (c). calculating, measuring, and safely preparing patient or human research subject dosages;
- (d). using administrative controls to prevent a medical event involving the use of byproduct material;
- (e). using procedures to contain spilled byproduct material safely and using proper decontamination procedures; and
- (f). administering dosages to patients or human research subjects that includes at least three cases involving the oral administration of greater than 1.22 gigabecquerels (33 millicuries) of sodium iodide I-131; and

iii. has obtained written attestation that the individual has satisfactorily completed the requirements in Clauses E.3.c.i and ii of this Section, and has achieved a level of competency sufficient to function independently as an authorized user for medical uses authorized in LAC 33:XV.735.C. The written attestation must be signed by a preceptor authorized user who meets the requirements in Paragraph E.1 or 3 of this Section, or equivalent agreement state requirements. A preceptor authorized user who meets the requirements in Subparagraph E.1.b of this Section must also have experience in administering dosages as specified in Subdivision E.1.b.i.(b).(vii).[b] of this Section.

4. Training for the Parenteral Administration of Unsealed Byproduct Material Requiring a Written Directive. Except as provided in Subsection B of this Section, the licensee shall require an authorized user for the parenteral administration requiring a written directive to be a physician:

- a. who is an authorized user in accordance with Paragraph E.1 of this Section for uses listed in Subdivision E.1.b.i.(b).(vii).[c] or [d] of this Section, or equivalent agreement state requirements; or
- b. who is an authorized user in accordance with Subsection F or I of this Section, or equivalent agreement state requirements, and who meets the requirements in Subparagraph E.4.d of this Section; or
- c. who is certified by a medical specialty board whose certification process has been recognized by the commission or an agreement state in accordance with

Subsection F or I of this Section, and who meets the requirements in Subparagraph E.4.d of this Section; or

- d. who meets the following requirements:
 - i. has successfully completed 80 hours of classroom and laboratory training, applicable to parenteral administrations, for which a written directive is required, of any beta emitter, or any photon-emitting radionuclide with a photon energy less than 150 keV, and/or parenteral administration of any other radionuclide for which a written directive is required. The training must include:
 - (a). radiation physics and instrumentation;
 - (b). radiation protection;
 - (c). mathematics pertaining to the use and measurement of radioactivity;
 - (d). chemistry of byproduct material for medical use; and
 - (e). radiation biology; and
 - ii. has work experience, under the supervision of an authorized user who meets the requirements in Paragraph E.1 or 4 of this Section, or equivalent agreement state requirements, in the parenteral administration, for which a written directive is required, of any beta emitter, or any photon-emitting radionuclide with a photon energy less than 150 keV, and/or parenteral administration of any other radionuclide for which a written directive is required. A supervising authorized user who meets the requirements in Paragraph E.1 of this Section must have experience in administering dosages as specified in Subdivisions E.1.b.i.(b).(vii).[c] and/or [d] of this Section. The work experience must involve:
 - (a). ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;
 - (b). performing quality control procedures on instruments used to determine the activity of dosages and performing checks for proper operation of survey meters;
 - (c). calculating, measuring, and safely preparing patient or human research subject dosages;
 - (d). using administrative controls to prevent a medical event involving the use of unsealed byproduct material;
 - (e). using procedures to contain spilled byproduct material safely and using proper decontamination procedures; and
 - (f). administering dosages to patients or human research subjects, that include at least three cases involving the parenteral administration, for which a written directive is required, of any beta emitter, or any photon-emitting radionuclide with a photon energy less than 150 keV, and/or at least three cases involving the parenteral administration of any other radionuclide for which a written directive is required; and
 - iii. has obtained written attestation that the individual has satisfactorily completed the requirements in Subparagraph E.4.b or c of this Section, and has achieved a level of competency sufficient to function independently as an authorized user for the parenteral administration of unsealed byproduct material requiring a written directive. The written attestation must be signed by a preceptor authorized user who meets the requirements in Paragraph E.1 or 4 of this Section, or equivalent agreement state requirements. A preceptor authorized user who meets the

requirements in Paragraph E.1 of this Section must have experience in administering dosages as specified in Subdivisions E.1.b.i.(b).(vii).[c] and/or [d] of this Section.

F. Training for Use of Manual Brachytherapy Sources. Except as provided in Subsection B of this Section, the licensee shall require the authorized user of a manual brachytherapy source for the uses authorized in LAC 33:XV.741 to be a physician:

1. who is certified by a medical specialty board whose certification process has been recognized by the commission or an agreement state, and who meets the requirements in Subparagraph F.2.d of this Section. (The names of board certifications that have been recognized by the commission or an agreement state will be posted on the NRC's web page.) To have its certification process recognized, a specialty board shall require all candidates for certification to:

a. successfully complete a minimum of three years of residency training in a radiation oncology program approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Committee on Post-Graduate Training of the American Osteopathic Association; and

b. pass an examination, administered by diplomates of the specialty board, that tests knowledge and competence in radiation safety, radionuclide handling, treatment planning, quality assurance, and clinical use of manual brachytherapy; or

2. who meets the following requirements:

a. has completed a structured educational program in basic radionuclide handling techniques applicable to the use of manual brachytherapy sources that includes:

i. 200 hours of classroom and laboratory training in the following areas:

(a). radiation physics and instrumentation;

(b). radiation protection;

(c). mathematics pertaining to the use and measurement of radioactivity; and

(d). radiation biology; and

ii. 500 hours of work experience under the supervision of an authorized user who meets the requirements in this Subsection, or equivalent agreement state requirements at a medical institution, involving:

(a). ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;

(b). checking survey meters for proper operation;

(c). preparing, implanting, and removing brachytherapy sources;

(d). maintaining running inventories of material on hand;

(e). using administrative controls to prevent a medical event involving the use of byproduct material; and

(f). using emergency procedures to control byproduct material; and

b. has completed three years of supervised clinical experience in radiation oncology under the supervision of an authorized user who meets the requirements in this Subsection, or equivalent agreement state requirements, as part of a formal training program approved by the Residency Review Committee for Radiation Oncology of the

Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Committee on Postdoctoral Training of the American Osteopathic Association. This experience may be obtained concurrently with the supervised work experience required in Subparagraph F.2.b of this Section; and

c. has obtained written attestation, signed by a preceptor authorized user who meets the requirements in this Subsection, or equivalent agreement state requirements, that the individual has satisfactorily completed the requirements in Subparagraph F.1.a, or Paragraph F.2 and Subparagraph F.2.c of this Section, and has achieved a level of competency sufficient to function independently as an authorized user of manual brachytherapy sources for the medical uses authorized in LAC 33:XV.741.

G. Training for Ophthalmic Use of Strontium-90. Except as provided in Subsection B of this Section, the licensee shall require the authorized user of strontium-90 for ophthalmic radiotherapy to be a physician:

1. who is an authorized user in accordance with Subsection F of this Section, or equivalent agreement state requirements; or

2. who meets the following requirements:

a. has completed 24 hours of classroom and laboratory training applicable to the medical use of strontium-90 for ophthalmic radiotherapy. The training must include:

i. radiation physics and instrumentation;

ii. radiation protection;

iii. mathematics pertaining to the use and measurement of radioactivity; and

iv. radiation biology; and

b. supervised clinical training in ophthalmic radiotherapy under the supervision of an authorized user at a medical institution, clinic, or private practice that includes the use of strontium-90 for the ophthalmic treatment of five individuals. This supervised clinical training must involve:

i. examination of each individual to be treated;

ii. calculation of the dose to be administered;

iii. administration of the dose; and

iv. follow-up and review of each individual's case history; and

c. has obtained written attestation, signed by a preceptor authorized user who meets the requirements in Subsections F and G of this Section, or equivalent agreement state requirements, that the individual has satisfactorily completed the requirements in Paragraphs G.1 and 2 of this Section and has achieved a level of competency sufficient to function independently as an authorized user of strontium-90 for ophthalmic use.

H. Training for Use of Sealed Sources for Diagnosis. Except as provided in Subsection B of this Section, the licensee shall require the authorized user of a diagnostic sealed source for use in a device authorized in LAC 33:XV.739 to be a physician, dentist, or podiatrist:

1. who is certified by a specialty board whose certification process includes all of the requirements in Paragraphs H.2 and 3 of this Section and whose certification process has been recognized by the commission or an agreement state. (The names of board certifications that have been recognized by the commission or an agreement state will be posted on the NRC's web page.); or

2. who has completed eight hours of classroom and laboratory training in basic radionuclide handling techniques specifically applicable to the use of the device. The training must include:

- a. radiation physics and instrumentation;
- b. radiation protection;
- c. mathematics pertaining to the use and measurement of radioactivity; and
- d. radiation biology; and

3. who has completed training in the use of the device for the uses requested.

I. Training for Use of Remote Afterloader Units, Teletherapy Units, and Gamma Stereotactic Radiosurgery Units. Except as provided in Subsection B of this Section, the licensee shall require the authorized user of a sealed source for a use authorized in LAC 33:XV.747 to be a physician:

1. who is certified by a medical specialty board whose certification process has been recognized by the commission or an agreement state, and who meets the requirements in Subparagraph I.2.c and Paragraph I.3 of this Section. (The names of board certifications that have been recognized by the commission or an agreement state will be posted on the NRC's web page.) To have its certification process recognized, a specialty board shall require all candidates for certification to:

a. successfully complete a minimum of three years of residency training in a radiation therapy program approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Committee on Post-Graduate Training of the American Osteopathic Association; and

b. pass an examination, administered by diplomates of the specialty board, that tests knowledge and competence in radiation safety, radionuclide handling, treatment planning, quality assurance, and clinical use of stereotactic radiosurgery, remote afterloaders, and external beam therapy; or

2. who meets the following requirements:

a. has completed a structured educational program in basic radionuclide techniques applicable to the use of a sealed source in a therapeutic medical unit that includes:

i. 200 hours of classroom and laboratory training in the following areas:

- (a). radiation physics and instrumentation;
- (b). radiation protection;
- (c). mathematics pertaining to the use and measurement of radioactivity; and
- (d). radiation biology; and

ii. 500 hours of work experience under the supervision of an authorized user who meets the requirements in this Subsection, or equivalent agreement state requirements at a medical institution, involving:

- (a). reviewing full calibration measurements and periodic spot-checks;
- (b). preparing treatment plans and calculating treatment doses and times;
- (c). using administrative controls to prevent a medical event involving the use of byproduct material;

(d). implementing emergency procedures to be followed in the event of the abnormal operation of a medical unit or console;

(e). checking and using survey meters; and

(f). selecting the proper dose and how it is to be administered; and

b. has completed three years of supervised clinical experience in radiation therapy under the supervision of an authorized user who meets the requirements in this Subsection, or equivalent agreement state requirements, as part of a formal training program approved by the Residency Review Committee for Radiation Oncology of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Committee on Postdoctoral Training of the American Osteopathic Association. This experience may be obtained concurrently with the supervised work experience required in Subparagraph I.2.b of this Section; and

c. has obtained written attestation that the individual has satisfactorily completed the requirements in Subparagraph I.1.a or Paragraph I.2 and Subparagraph I.2.c, and Paragraph I.3 of this Section, and has achieved a level of competency sufficient to function independently as an authorized user of each type of therapeutic medical unit for which the individual is requesting authorized user status. The written attestation must be signed by a preceptor authorized user who meets the requirements in this Subsection or equivalent agreement state requirements for an authorized user for each type of therapeutic medical unit for which the individual is requesting authorized user status; and

3. who has received training in device operation, safety procedures, and clinical use for the type(s) of use for which authorization is sought. This training requirement may be satisfied by satisfactory completion of a training program provided by the vendor for new users or by receiving training supervised by an authorized user or authorized medical physicist, as appropriate, who is authorized for the type(s) of use for which the individual is seeking authorization.

J. Training for an Authorized Medical Physicist. Except as provided in Subsection B of this Section, the licensee shall require the authorized medical physicist to be an individual:

1. who is certified by a specialty board whose certification process has been recognized by the commission or an agreement state, and who meets the requirements in Subparagraph J.2.b and Paragraph J.3 of this Section. (The names of board certifications that have been recognized by the commission or an agreement state will be posted on the NRC's web page.) To have its certification process recognized, a specialty board shall require all candidates for certification to:

a. hold a master's or doctor's degree in physics, medical physics, another physical science, engineering, or applied mathematics from an accredited college or university;

b. have two years of full-time practical training and/or supervised experience in medical physics:

i. under the supervision of a medical physicist who is certified in medical physics by a specialty board recognized by the commission or an agreement state; or

ii. in a clinical radiation facility providing high-energy, external beam therapy (photons and electrons with energies greater than or equal to 1 million electron volts) and brachytherapy services under the direction of a physician who meets the requirements for an authorized user in Subsection F or I of this Section; and

c. pass an examination, administered by diplomates of the specialty board, that assesses knowledge and competence in clinical radiation therapy, radiation safety, calibration, quality assurance, and treatment planning for external beam therapy, brachytherapy, and stereotactic radiosurgery; or

2. who meets the following requirements:

a. holds a master's or doctor's degree in physics, medical physics, another physical science, engineering, or applied mathematics from an accredited college or university, and has completed one year of full-time training in medical physics and an additional year of full-time work experience under the supervision of an individual who meets the requirements for an authorized medical physicist for the type(s) of use for which the individual is seeking authorization. This training and work experience must be conducted in a clinical radiation facility that provides high-energy, external beam therapy (photons and electrons with energies greater than or equal to 1 million electron volts) and brachytherapy services, and must include:

i. performing sealed source leak tests and inventories;

ii. performing decay corrections;

iii. performing full calibration and periodic spot checks of external beam treatment units, stereotactic radiosurgery units, and remote afterloading units, as applicable; and

iv. conducting radiation surveys around external beam treatment units, stereotactic radiosurgery units, and remote afterloading units, as applicable; and

b. has obtained written attestation that the individual has satisfactorily completed the requirements in Subparagraphs J.1.a and b and Paragraph J.3, or Subparagraph J.2.a and Paragraph J.3, of this Section, and has achieved a level of competency sufficient to function independently as an authorized medical physicist for each type of therapeutic medical unit for which the individual is requesting authorized medical physicist status. The written attestation must be signed by a preceptor authorized medical physicist who meets the requirements in this Subsection, or equivalent agreement state requirements for an authorized medical physicist for each type of therapeutic medical unit for which the individual is requesting authorized medical physicist status; and

3. who has training for the type(s) of use for which authorization is sought that includes hands-on device operation, safety procedures, clinical use, and the operation of a treatment planning system. This training requirement may be satisfied by satisfactorily completing either a training program provided by the vendor or by training supervised by an authorized medical physicist authorized for the type(s) of use for which the individual is seeking authorization.

K. Training for an Authorized Nuclear Pharmacist. Except as provided in this Subsection the licensee shall require the authorized nuclear pharmacist to be a pharmacist:

1. who is certified by a specialty board whose certification process has been recognized by the commission or an agreement state, and who meets the requirements in Subparagraph K.2.b of this Section. (The names of board certifications that have been recognized by the commission or an agreement state will be posted on the NRC's web page.) To have its certification process recognized, a specialty board shall require all candidates for certification to:

a. have graduated from a pharmacy program accredited by the American Council on Pharmaceutical Education (ACPE) or have passed the Foreign Pharmacy Graduate Examination Committee (FPGEC) examination;

b. hold a current, active license to practice pharmacy;

c. provide evidence of having acquired at least 4000 hours of training and experience in nuclear pharmacy practice. Academic training may be substituted for no more than 2000 hours of the required training and experience; and

d. pass an examination in nuclear pharmacy administered by diplomates of the specialty board, that assesses knowledge and competency in procurement, compounding, quality assurance, dispensing, distribution, health and safety, radiation safety, provision of information and consultation, monitoring patient outcomes, research and development; or

2. who meets the following requirements:

a. has completed 700 hours in a structured educational program consisting of both:

i. didactic training in the following areas:

(a). radiation physics and instrumentation;

(b). radiation protection;

(c). mathematics pertaining to the use and measurement of radioactivity;

(d). chemistry of byproduct material for medical use; and

(e). radiation biology; and

ii. supervised practical experience in a nuclear pharmacy involving:

(a). shipping, receiving, and performing related radiation surveys;

(b). using and performing checks for proper operation of instruments used to determine the activity of dosages, survey meters, and if appropriate, instruments used to measure alpha-emitting or beta-emitting radionuclides;

(c). calculating, assaying, and safely preparing dosages for patients or human research subjects;

(d). using administrative controls to avoid medical events in the administration of byproduct material; and

(e). using procedures to prevent or minimize radioactive contamination and using proper decontamination procedures; and

b. has obtained written attestation, signed by a preceptor authorized nuclear pharmacist, that the individual has satisfactorily completed the requirements in Subparagraphs K.1.a, b, and c, or Paragraph K.2, of this Section and has achieved a level of competency sufficient to function independently as an authorized nuclear pharmacist.

L. Physician Training in a Three-Month Program. A physician who, before July 1, 1984, began a three-month nuclear medicine training program approved by the

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary Legal Affairs Division

Accreditation Council for Graduate Medical Education and has successfully completed the program, is exempted from the requirements of Subsection C or D of this Section.

M. Recentness of Training. The training and experience specified in Subsections A-K of this Section shall have been obtained within the seven years preceding the date of application, or the individual shall have had continuing applicable experience since the required training and experience was completed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2106 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2590 (November 2000), LR 30:1186 (June 2004), amended by the Office of Environmental Assessment, LR 31:1061 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:814 (May 2006), LR 34:

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

A public hearing will be held on May 27, 2008, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Parking in the Galvez Garage is free with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by RP045ft. Such comments must be received no later than May 27, 2008, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. The comment period for this rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of RP045ft. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 North Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM
Executive Counsel

0804#094

RCRA Burden Reduction Initiative
(LAC 33:V.322, 519, 523, 532, 1509, 1513, 1515, 1529, 1737, 1739, 1903, 1905, 1907, 1911, 1913, 2109, 2245, 2246, 2247, 2303, 2515, 2605, 2719, 2803, 2805, 2807, 3007, 3023, 3111, 3119, 3317, 3319, 3517, 3527, 3707, 3711, 3715, 4365, 4367, 4373, 4387, 4395, 4403, 4407, 4411, 4433, 4435, 4437, 4438, 4440, 4441, 4451, 4452, 4462, 4472, 4489, 4498, 4507, 4512, 4701, and 4703)
(HW100ft)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Hazardous Waste regulations, LAC 33:V.322, 519, 523, 532, 1509, 1513, 1515, 1529, 1737, 1739, 1903, 1905, 1907, 1911, 1913, 2109, 2245, 2246, 2247, 2303, 2515, 2605, 2719, 2803, 2805, 2807, 3007, 3023, 3111, 3119, 3317, 3319, 3517, 3527, 3707, 3711, 3715, 4365, 4367, 4373, 4387, 4395, 4403, 4407, 4411, 4433, 4435, 4437, 4438, 4440, 4441, 4451, 4452, 4462, 4472, 4489, 4498, 4507, 4512, 4701, and 4703 (Log #HW100ft).

This proposed Rule is identical to federal regulations found in 71 FR 16862-16915 (April 4, 2006), which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3550 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the proposed Rule. This Rule will be promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

This Rule will implement changes to the hazardous waste program made in 40 CFR Parts 260, 261, 264, 265, 266, 268, 270, and 271, involving recordkeeping and reporting requirements in order to reduce the paperwork burden these requirements impose on the state, the regulated community, and EPA. The Rule will streamline information collection requirements, ensuring that only the information that is actually needed and used to implement the Resource Conservation and Recovery Act (RCRA) program is collected. To maintain consistency with the federal regulations, LAC 33:V.4451 is renumbered as §4452. The goals of protecting human health and the environment are maintained. In accordance with the Paperwork Reduction Act, EPA promulgated changes to the regulatory requirements of the RCRA hazardous waste program. The state must adopt these changes to maintain equivalency with EPA standards. The basis and rationale for this proposed Rule are to mirror the federal regulations. This proposed Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33
ENVIRONMENTAL QUALITY
Part V. Hazardous Waste and Hazardous Materials
Subpart 1. Department of Environmental
Quality—Hazardous Waste
Chapter 3. General Conditions for Treatment,
Storage, and Disposal Facility Permits

§322. Classification of Permit Modifications

The following is a listing of classifications of permit modifications made at the request of the permittee.

Modifications	Class
A. - N.3. ...	
O. Burden Reduction	
1. Development of one contingency plan based on Integrated Contingency Plan Guidance pursuant to LAC 33:V.1513.B.2	1
2. Changes to recordkeeping and reporting requirements pursuant to LAC 33:V.1513.F.9, 1737.B.1, 1739.A.2, 1913.F, 3111.A.2, 3321.G, and 3513.E.5	1
3. Changes to inspection frequency for tank systems pursuant to LAC 33:V.1911.B	1
4. Changes to detection and compliance monitoring program pursuant to LAC 33:V.3317.D, G.2, and G.3, and 3319.F and G	1

¹Class 1 modifications requiring prior administrative authority approval.

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 13:433 (August 1987), LR 16:614 (July 1990), LR 17:658 (July 1991), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:815 (September 1996), amended by the Office of the Secretary, LR 24:2245 (December 1998), amended by the Office of Waste Services, Hazardous Waste Division, LR 25:436 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:270 (February 2000), LR 27:292 (March 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 34:620 (April 2008), LR 34:

Chapter 5. Permit Application Contents

Subchapter E. Specific Information Requirements

§519. Contents of Part II: General Requirements

A. Part II of the permit application consists of the general information requirements of this Section, and the specific information requirements in LAC 33:V.519-549 applicable to the facility. The Part II information requirements presented in LAC 33:V.519-549 reflect the standards promulgated in LAC 33:V.Chapters 15, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 35, and 37. These information requirements are necessary in order for the administrative authority to determine compliance with LAC 33:V.Chapters 15, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 35, and 37. If owners and operators of Hazardous Waste Management facilities can demonstrate that the information prescribed in Part II cannot be provided to the extent required, the administrative authority may make allowance for submission of such information on a case-by-case basis. Information required in Part II shall be submitted to the administrative authority and signed in accordance with requirements in Subchapter B of this Chapter. Certain technical data, such as design drawings and specifications and engineering studies, shall be certified by a qualified professional engineer. For post-closure

permits, only the information specified in LAC 33:V.528 is required in Part II of the permit application.

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), amended by the Office of Waste Services, Hazardous Waste Division, LR 25:436 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1465 (August 1999), amended by the Office of the Secretary, Legal Affairs Division, LR 34:

§523. Specific Part II Information Requirements for Tanks

Except as otherwise provided in LAC 33:V.1901, owners and operators of facilities that use tanks to store or treat hazardous waste must provide the following additional information:

A. a written assessment that is reviewed and certified by an independent, qualified professional engineer as to the structural integrity and suitability for handling hazardous waste for each tank system, as required under LAC 33:V.1903 and 1905;

B. - 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 10:200 (March 1984), amended LR 10:280 (April 1984), LR 13:433 (August 1987) LR 16:220 (March 1990), LR 16:614 (July 1990), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1692 (September 1998), amended by the Office of the Secretary, Legal Affairs Division, LR 34:

§532. Special Part II Information Requirements for Drip Pads

A. - A.3.n. ...

o. a certification signed by an independent, qualified professional engineer stating that the drip pad design meets the requirements of LAC 33:V.2805.A-F;

p. ...

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 21:266 (March 1995), amended by the Office of the Secretary, Legal Affairs Division, LR 34:

Chapter 15. Treatment, Storage, and Disposal Facilities

§1509. General Inspection Requirements

A.1. - A.2. ...

B. Inspection Schedule

1. - 3. ...

4. The frequency of inspection may vary for the items on the schedule. However, the frequency should be based on the rate of possible deterioration of the equipment and the probability of an environmental or human health incident if the deterioration, a malfunction, or operator error goes undetected between inspections. Areas subject to spills, such as loading and unloading areas, must be inspected daily when in use. At a minimum, the inspection schedule must include the terms and frequencies called for in LAC 33:V.1709, 1719, 1721, 1731, 1753, 1755, 1757, 1759, 1761, 1763, 1765, 1907, 1911, 2109, 2309, 2507, 2711, 2907, 3119, and 3205, where applicable.

[Comment: LAC 33:V.517.G requires the inspection schedule to be submitted with Part II of the permit application. The department will evaluate the schedule along with the rest of the application to ensure that it adequately protects human health and the environment. As part of this review, the department may modify or amend the schedule as may be necessary.]

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 10:200 (March 1984), amended 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 24:1695 (September 1998), LR 25:437 (March 1999), amended by the Office of the Secretary, Legal Affairs Division, LR 34:

§1513. Contingency Plan and Emergency Procedures

A. - B.1. ...

2. If the owner or operator has already prepared a Spill Prevention, Control, and Countermeasures (SPCC) Plan in accordance with 40 CFR Part 112 or 40 CFR Part 300, or some other emergency or contingency plan, he need only amend that plan to incorporate hazardous waste management provisions that are sufficient to comply with these requirements. The owner or operator may develop one contingency plan that meets all regulatory requirements. EPA recommends that the plan be based on the National Response Team's Integrated Contingency Plan Guidance ("One Plan"). When modifications are made to non-RCRA provisions in an integrated contingency plan, the changes do not trigger the need for a RCRA permit modification.

B.3. - F.8.a. ...

b. all emergency equipment listed in the contingency plan is cleaned and fit for its intended use before operations are resumed.

9. The owner or operator must note in the operating record the time, date, and details of any incident that requires implementation of the contingency plan. Within 15 days after the incident, he must submit a written report on the incident to SPOC that includes:

- a. name, address, and telephone number of the owner or operator;
- b. name, address, and telephone number of the facility;
- c. date, time, and type of incident (e.g., fire, explosion);
- d. name and quantity of material(s) involved;
- e. the extent of injuries, if any;
- f. an assessment of actual or potential hazards to human health or the environment, where this is applicable; and

g. estimated quantity and disposition of recovered material that resulted from the incident.

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), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2472 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2456 (October 2005), LR 33:2104 (October 2007), LR 34:

§1515. Personnel Training

A. - A.4. ...

5. For facility employees who receive emergency response training pursuant to Occupational Safety and Health Administration (OSHA) regulations in 29 CFR 1910.120(p)(8) and 1910.120(q), the facility is not required to provide separate emergency response training pursuant to this Section, provided that the overall facility training meets all the requirements of this Section.

B. - E. ...

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 the Secretary, Legal Affairs Division, LR 34:

§1529. Operating Record and Reporting Requirements

A. ...

B. The following information must be recorded, as it becomes available, and maintained in the operating record for three years, unless otherwise specified in Paragraphs B.1-22 of this Section:

1. a description and the quantity of each hazardous waste received, and the method(s) and date(s) of its treatment, storage, or disposal at the facility, utilizing specifications in Tables 1 and 2 of this Section. This information must be maintained in the operating record until closure of the facility;

2. - 4, Table 2. ...

5. the location of each hazardous waste within the facility and the quantity at each location. For disposal facilities, the location and quantity of each hazardous waste must be recorded on a map or diagram that shows each cell or disposal area. For all facilities, this information must include cross-references to manifest document numbers, if the waste was accompanied by a manifest. This information must be maintained in the operating record until closure of the facility;

6. - 8. ...

9. monitoring, testing, or analytical data, and corrective action where required by LAC 33:V.1504, 1711.C-F, 1713, 1741.D-I, 1743, 1751, 1753, 1755, 1757, 1759, 1761, 1763, 1765, 1767, 1903, 1907, 1911, 2304, 2306, 2309, 2504, 2507, 2508, 2509, 2709, 2711, 2719, 2904, 2906, 2907, 3119, 3203, 3205, and Chapter 33, as well as corrective action cites. Maintain this information in the operating record for three years, except for records and results pertaining to groundwater monitoring and cleanup, which must be maintained in the operating record until closure of the facility;

10. ...

11. all closure cost estimates and, for disposal facilities, all post-closure cost estimates. This information must be maintained in the operating record until closure of the facility;

12. records of the quantities and date of placement for each shipment of hazardous waste placed in land disposal units under an extension to the effective date of any land disposal prohibition granted in accordance with LAC 33:V.2239, a petition approved in accordance with LAC 33:V.2241 or 2271, a determination made under LAC 33:V.2273, or a certification under LAC 33:V.2235 and the applicable notice required by a generator under LAC

33:V.2245. This information must be maintained in the operating record until closure of the facility;

13. - 18. ...

19. a certification by the permittee no less often than annually, that the permittee has a program in place to reduce the volume and toxicity of hazardous waste that he generates to the degree determined by the permittee to be economically practicable, and that the proposed method of treatment, storage, or disposal is that practicable method currently available to the permittee which minimizes the present and future threat to human health and the environment;

20. any records required under LAC 33:V.1501.H.13;

21. monitoring, testing, or analytical data where required by LAC 33:V.3119. This information must be maintained in the operating record for five years; and

22. certifications as required by LAC 33:V.1913.F. This information must be maintained in the operating record until closure of the facility.

C. - E. ...

1. releases, fires, and explosions as specified in LAC 33:V.1513.F.9;

2. - 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 15:378 (May 1989), LR 16:220 (March 1990), LR 16:399 (May 1990), LR 17:658 (July 1991), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 22:832 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1695 (September 1998), LR 25:437 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1799 (October 1999), LR 26:278 (February 2000), LR 26:2473 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 32:827 (May 2006), LR 33:2104 (October 2007), LR 34:623 (April 2008), LR 34:

Chapter 17. Air Emission Standards

Subchapter B. Equipment Leaks

§1737. Alternative Standards for Valves in Gas/Vapor Service or in Light Liquid Service: Percentage of Valves Allowed to Leak

A. - B. ...

1. A performance test as specified in Subsection C of this Section shall be conducted initially upon designation, annually, and at other times requested by the administrative authority.

2. If a valve leak is detected, it shall be repaired in accordance with LAC 33:V.1729.D and E.

C. Performance tests shall be conducted in the following manner.

1. - 3. ...

D. 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 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2473 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2456 (October 2005), LR 33:2105 (October 2007), LR 34:

§1739. Alternative Standards for Valves in Gas/Vapor Service or in Light Liquid Service: Skip Period Leak Detection and Repair

A. Alternative Work Practices. An owner or operator subject to the requirements of LAC 33:V.1729 may elect for all valves within a hazardous waste management unit to comply with one of the alternative work practices specified in Paragraphs B.2 and 3 of this Section.

B. Leak Detection Skip Period

1. - 4. ...

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 17:658 (July 1991), amended by the Office of Waste Services, Hazardous Waste Division, LR 25:439 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2473 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2457 (October 2005), LR 33:2105 (October 2007), LR 34:

Chapter 19. Tanks

§1903. Assessment of Existing Tank System's Integrity

A. For each existing tank system that does not have secondary containment meeting the requirements of LAC 33:V.1907.B-I, the owner or operator must determine that the tank system is not leaking or is unfit for use. Except as provided in Subparagraph B.5.c of this Section, the owner or operator must obtain and keep on file at the facility a written assessment reviewed and certified by an independent, qualified professional engineer, in accordance with LAC 33:V.513, that attests to the tank system's integrity by November 20, 1988. Tanks excluded from permitting requirements under LAC 33:V.1109.E.1 must have an assessment as described in this Section by November 20, 1990.

B. - B.5.a. ...

b. for other than non-enterable underground tanks and for ancillary equipment, this assessment must include either a leak test, as described above, or other integrity examination, that is certified by an independent, qualified professional engineer in accordance with LAC 33:V.513, that addresses cracks, leaks, corrosion and erosion;

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 10:200 (March 1984), amended LR 13:651 (November 1987), LR 16:614 (July 1990), LR 18:1256 (November 1992), amended by the Office of the Secretary, Legal Affairs Division, LR 34:

§1905. Design and Installation of New Tank Systems or Components

A. Owners or operators of new tank systems or components must obtain and submit to the Office of Environmental Services, at the time of submittal of Part II information, a written assessment, reviewed and certified by an independent, qualified professional engineer, in accordance with LAC 33:V.513, attesting that the tank system has sufficient structural integrity and is acceptable for the storing and treating of hazardous waste. The assessment must show that the foundation, structural support, seams, connections and pressure controls (if

applicable) are adequately designed and that the tank system has sufficient structural strength, compatibility with the waste(s) to be stored or treated, and corrosion protection to ensure that it will not collapse, rupture or fail. This assessment, which will be used by the administrative authority to review and approve or disapprove the acceptability of the tank system design, must include, at a minimum, the following information:

1. - 5.c. ...

B. The owner or operator of a new tank system must ensure that proper handling procedures are adhered to in order to prevent damage to the system during installation.

1. Prior to covering, enclosing, or placing a new tank system or component in use, an independent, qualified installation inspector or an independent, qualified professional engineer, either of whom is trained and experienced in the proper installation of tank systems or components, must inspect the system for the presence of any of the following items:

- a. weld breaks;
- b. punctures;
- c. scrapes of protective coatings;
- d. cracks;
- e. corrosion;
- f. other structural damage or inadequate construction/installation.

2. All discrepancies must be remedied before the tank system is covered, enclosed, or placed in use.

C. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:651 (November 1987), LR 16:614 (July 1990), LR 16:683 (August 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2475 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2107 (October 2007), LR 34:

§1907. Containment and Detection of Releases

A. ...

1. for all new and existing tank systems or components, prior to their being put into service; and

2. for tank systems that store or treat materials that become hazardous wastes, within two years of the hazardous waste listing, or when the tank system has reached 15 years of age, whichever comes later.

B. Secondary containment systems must be:

B.1. - I.2. ...

a. conduct a leak test as in Paragraph I.1 or 2 of this Section; or

b. develop a schedule and procedure for an assessment of the overall condition of the tank system by an independent, qualified professional engineer. The schedule and procedure must be adequate to detect obvious cracks, leaks, and corrosion or erosion that may lead to cracks and leaks. The owner or operator must remove the stored waste from the tank, if necessary, to allow the condition of all internal tank surfaces to be assessed. The frequency of these assessments must be based on the material of construction of the tank and its ancillary equipment, the age of the system, the type of corrosion or erosion protection used, the rate of corrosion or erosion observed during the previous

inspection, and the characteristics of the waste being stored or treated.

3. - 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 13:651 (November 1987), LR 14:790 (November 1988), LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2475 (November 2000), amended by the Office of Environmental Assessment, LR 31:1572 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2107 (October 2007), LR 34:624 (April 2008), LR 34:

§1911. Inspections

A. ...

B. The owner or operator must inspect, at least once each operating day, data gathered from monitoring and leak detection equipment (e.g., pressure or temperature gauges, monitoring wells) to ensure that the tank system is being operated according to its design.

C. In addition, except as noted under Subsection D of this Section, the owner or operator must inspect at least once each operating day:

1. aboveground portions of the tank system, if any, to detect corrosion or releases of waste; and

2. the construction materials and the area immediately surrounding the externally accessible portion of the tank system, including the secondary containment system (e.g., dikes) to detect erosion or signs of releases of hazardous waste (e.g., wet spots, dead vegetation).

D. Owners or operators of tank systems that either use leak detection systems to alert facility personnel to leaks, or implement established workplace practices to ensure that leaks are promptly identified, must inspect at least weekly those areas described in Paragraphs C.1 and 2 of this Section. Use of the alternate inspection schedule must be documented in the facility's operating record. This documentation must include a description of the established workplace practices at the facility.

E. Ancillary equipment that is not provided with secondary containment, as described in LAC 33:V.1907.F.1-4, must be inspected at least once each operating day.

F. The owner or operator must inspect cathodic protection systems, if present, according to, at a minimum, the following schedule to ensure that they are functioning properly:

1. the proper operation of the cathodic protection system must be confirmed within six months after initial installation and annually thereafter; and

2. all sources of impressed current must be inspected and/or tested, as appropriate, at least bimonthly (i.e., every other month).

G. The owner or operator must document in the operating record of the facility an inspection of those items in Subsections A-C and F 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 Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:651 (November 1987), LR 14:790 (November 1988), amended by the Office of the Secretary, Legal Affairs Division, LR 34:

§1913. Response to Leaks or Spills and Disposition of Leaking or Unfit-for-Use Tank Systems

A tank system or secondary containment system from which there has been a leak or spill, or that is unfit for use, must be removed from service immediately, and the owner or operator must satisfy the following requirements.

A. - E.4. ...

F. Certification of Major Repairs. If the owner/operator has repaired a tank system in accordance with Subsection E of this Section and the repair has been extensive (e.g., installation of an internal liner; repair of a ruptured primary containment or secondary containment vessel), the tank system must not be returned to service unless the owner/operator has obtained a certification by an independent, qualified professional engineer in accordance with LAC 33:V.513 that the repaired system is capable of handling hazardous wastes without release for the intended life of the system. This certification must be placed in the operating record and maintained until closure of the facility.

[Note: The administrative authority may, on the basis of any information received that there is or has been a release of hazardous waste or hazardous constituents into the environment, issue an order requiring corrective action or such other response as is deemed necessary to protect human health or the environment.]

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 13:651 (November 1987), LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2475 (November 2000), LR 30:1673 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2457 (October 2005), LR 33:2107 (October 2007), LR 34:

Chapter 21. Containers

§2109. Inspections

A. At least weekly, the owner or operator must inspect areas where containers are stored. The owner or operator must look for leaking containers and for deterioration of containers and the containment system caused by corrosion or other factors. Remedial action as described in LAC 33:V.1513 shall be taken.

B. - 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 10:200 (March 1984), amended LR 10:496 (July 1984), repromulgated LR 18:1256 (November 1992), amended by the Office of the Secretary, Legal Affairs Division, LR 34:

Chapter 22. Prohibitions on Land Disposal

Subchapter A. Land Disposal Restrictions

§2245. Generators' Waste Analysis, Recordkeeping, and Notice Requirements

A. Requirements for generators. A generator of hazardous waste must determine if the waste has to be treated before it can be land disposed. This is done by determining if the hazardous waste meets the treatment standards in LAC 33:V.2223, 2230, or 2236. This determination can be made concurrently with the hazardous waste determination required in LAC 33:V.1103 in either of two ways: testing the waste or using knowledge of the waste. If the generator tests the waste, testing would normally

determine the total concentration of hazardous constituents, or the concentration of hazardous constituents in an extract of the waste obtained using Test Method 1311 in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, as incorporated by reference in LAC 33:V.110, depending on whether the treatment standard for the waste is expressed as a total concentration or concentration of hazardous constituent in the waste's extract. Alternatively, the generator must send the waste to a RCRA-permitted hazardous waste treatment facility, where the waste treatment facility must comply with the requirements of LAC 33:V.1519 and 2247.A. In addition, some hazardous wastes must be treated by particular treatment methods before they can be land disposed, and some soils are contaminated by such hazardous wastes. These treatment standards are also found in LAC 33:V.2223, and are described in detail in LAC 33:V.2299.Appendix, Table 3. These wastes, and soils contaminated with such wastes, do not need to be tested (however, if they are in a waste mixture, other wastes with concentration level treatment standards would have to be tested). If a generator determines they are managing a waste, or soil contaminated with a waste, that displays a hazardous characteristic of ignitability, corrosivity, reactivity, or toxicity, they must comply with the special requirements of LAC 33:V.2246 in addition to any applicable requirements in this Section.

B. If the waste or contaminated soil does not meet the treatment standards, or if the generator chooses not to make the determination of whether his waste must be treated, with the initial shipment of waste to each treatment or storage facility, the generator must send a one-time written notice to each treatment or storage facility receiving the waste and place a copy in the file. The notice must include the information in column "LAC 33:V.2245.B" of the Generator Paperwork Requirements Table in Subsection D of this Section. Alternatively, if the generator chooses not to make the determination of whether the waste must be treated, the notification must include the EPA hazardous waste numbers and manifest number of the first shipment and must state, "This hazardous waste may or may not be subject to the LDR treatment standards. The treatment facility must make the determination." No further notification is necessary until such time as the waste or facility changes, in which case a new notification must be sent and a copy placed in the generator's file.

B.1 - 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, 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), LR 24:1728 (September 1998), LR 25:447 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:281 (February 2000), LR 26:2478 (November 2000), LR 27:295 (March 2001), LR 27:711 (May 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2459 (October 2005), LR 33:2109 (October 2007), LR 34:

§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. This determination may be made concurrently with the hazardous waste determination required in LAC 33:V.1103. For purposes of this Chapter, the waste will carry the waste code for any applicable listing under LAC 33:V.4901. In addition, where the waste exhibits a characteristic, the waste will carry one or more of the characteristic waste codes (LAC 33:V.4903), except when the treatment standard for the listed waste operates in lieu of the treatment standard for the characteristic waste, as specified in Subsection B of this Section. If the generator determines that his waste displays a hazardous characteristic (and is not D001 nonwastewaters treated by CMBST, RORGS, or POLYM of LAC 33:V.2299.Appendix, Table 3), the generator must determine the *underlying hazardous constituents* (as defined in LAC 33:V.2203.A), in the characteristic waste.

B. - C. ...

D. Wastes that exhibit a characteristic are also subject to the requirements of LAC 33:V.2245, except that once the waste is no longer hazardous, a one-time notification and certification must be placed in the generator's or treater's on-site files. The notification and certification must be updated if the process or operation generating the waste changes and/or if the solid waste disposal facility receiving the waste changes.

D.1. - F.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 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), LR 24:1730 (September 1998), LR 25:449 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:281 (February 2000), LR 26:2478 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2459 (October 2005), LR 33:2109 (October 2007), LR 34:

§2247. Owners or Operators of Treatment or Disposal Facilities: Testing, Waste Minimization, Recordkeeping and Notice Requirements

A. - D. ...

E. Where the wastes are recyclable materials used in a manner constituting disposal subject to the provisions in LAC 33:V.4139.B-D regarding treatment standards and prohibition levels, the owner or operator of a treatment facility (i.e., the recycler) must, for the initial shipment of waste, prepare a one-time certification described in Subsection C of this Section and a one-time notice that includes the information listed in Subsection B of this Section (except the manifest number). The certification and notification must be placed in the facility's on-site files. If the waste or the receiving facility changes, a new certification and notification must be prepared and placed in the on-site files. In addition, the recycling facility must also

keep records of the name and location of each entity receiving the hazardous waste-derived product.

F. - 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 LR16:1057 (December 1990), LR 17:658 (July 1991), LR 21:266, 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), LR 24:1730 (September 1998), LR 25:449 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:282 (February 2000), LR 26:2478 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2459 (October 2005), LR 32:607 (April 2006), LR 33:2110 (October 2007), LR 34:

Chapter 23. Waste Piles

§2303. Design and Operating Requirements

A. - B.4. ...

C. The owner or operator of each new waste pile unit, each lateral expansion of a waste pile unit, and each replacement of an existing waste pile unit must install two or more liners and a leachate collection and removal system above and between such liners.

C.1. - L. ...

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 20:1000 (September 1994), LR 21:266, 267 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2480 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2111 (October 2007), LR 34:

Chapter 25. Landfills

§2515. Special Requirements for Bulk and Containerized Liquids

A. The placement of bulk or noncontainerized liquid hazardous waste or hazardous waste containing free liquids (whether or not sorbents have been added) in any landfill is prohibited.

B. Containers holding free liquids must not be placed in a landfill unless:

1. all free-standing liquids:

a. have been removed by decanting, or other methods;

b. have been mixed with sorbent or solidified so that the free-standing liquid is no longer present; or

c. have been otherwise eliminated; or

2. the container is very small such as an ampule; or

3. the container is designed to hold free liquids for use other than storage, such as a battery or capacitor; or

4. the container is a *lab pack* as defined in LAC 33:V.109 and is disposed of in accordance with LAC 33:V.2519.

C. To demonstrate the absence or presence of free liquids in either a containerized or a bulk waste, the following test must be used: Method 9095B (Paint Filter Liquids Test) as described in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, as incorporated by reference in LAC 33:V.110.

D. 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:

1. 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

2. placement in such owner's or operator's landfill will not present a risk of contamination of any *underground source of drinking water or groundwater* (as these terms are defined in LAC 33:V.109).

E. Sorbents used to treat free liquids to be disposed of in landfills must be nonbiodegradable. Nonbiodegradable sorbents are: materials listed or described in this Subsection; materials that pass one of the tests in Paragraph E.2 of this Section; or materials that are determined by the administrative authority to be nonbiodegradable through the petition process in LAC 33:I.Chapter 9.

1. Nonbiodegradable Sorbents. The following materials are nonbiodegradable sorbents:

a. inorganic minerals, other inorganic materials, and elemental carbon, such as aluminosilicates, clays, smectites, Fuller's earth, bentonite, calcium bentonite, montmorillonite, calcined montmorillonite, kaolinite, micas (illite), vermiculites, zeolites; calcium carbonate (organic free limestone); oxides/hydroxides, alumina, lime, silica (sand), diatomaceous earth; perlite (volcanic glass); expanded volcanic rock; volcanic ash; cement kiln dust; fly ash; rice hull ash; activated charcoal/activated carbon; or

b. high molecular weight synthetic polymers, such as polyethylene, high density polyethylene (HDPE), polypropylene, polystyrene, polyurethane, polyacrylate, polynorborene, polyisobutylene, ground synthetic rubber, cross-linked allylstyrene and tertiary butyl copolymers. This does not include polymers derived from biological material or polymers specifically designed to be degradable; or

c. mixtures of these nonbiodegradable materials.

2. Tests for Nonbiodegradable Sorbents

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: [CO₂ Evolution (Modified Sturm Test)].

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), amended by the Office of the Secretary, Legal Affairs Division, LR 34:

Chapter 26. Corrective Action Management Units and Special Provisions for Cleanup

§2605. Staging Piles

[NOTE: This Section is written in a special format to make it easier to understand the regulatory requirements. Like other department and USEPA regulations, this establishes enforceable legal requirements. For this Section, *I* and *you* refer to the owner/operator.]

A. - C.1. ...

2. certification by an independent, qualified professional engineer for technical data, such as design drawings and specifications, and engineering studies, unless the administrative authority determines, based on information that you provide, that this certification is not necessary to ensure that a staging pile will protect human health and the environment; and

C.3. - M. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:285 (February 2000), amended LR 28:1196 (June 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 34:

Chapter 27. Land Treatment

§2719. Closure and Post-Closure Care

A. - A.8. ...

B. For the purpose of complying with LAC 33:V.3517, when closure is completed, the owner or operator may submit to the Office of Environmental Services certification by an independent, qualified soil scientist, in lieu of an independent, qualified professional engineer, that the facility has been closed in accordance with the specifications in the approved closure plan.

C. - D.4. ...

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 14:790 (November 1988), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2482 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2461 (October 2005), LR 33:2112 (October 2007), LR 34:

Chapter 28. Drip Pads

§2803. Assessment of Existing Drip Pad Integrity

A. For each *existing drip pad* as defined in LAC 33:V.2801, the owner or operator must evaluate the drip pad and determine that it meets all of the requirements of this Chapter, except the requirements for liners and leak detection systems of LAC 33:V.2805.C. No later than the effective date of this rule, the owner or operator must obtain and keep on file at the facility a written assessment of the drip pad, reviewed and certified by an independent, qualified professional engineer that attests to the results of the evaluation. The assessment must be reviewed, updated and re-certified annually until all upgrades, repairs, or modifications necessary to achieve compliance with all of the standards of LAC 33:V.2805 are complete. The evaluation must document the extent to which the drip pad meets each of the design and operating standards of LAC 33:V.2805, except the standards for liners and leak detection systems, specified in LAC 33:V.2805.C, and must document

the age of the drip pad to the extent possible, to document compliance with Subsection B of this Section.

B. The owner or operator must develop a written plan for upgrading, repairing, and modifying the drip pad to meet the requirements of LAC 33:V.2805.C and submit the plan to the Office of Environmental Services no later than two years before the date that all repairs, upgrades, and modifications will be complete. This written plan must describe all changes to be made to the drip pad in sufficient detail to document compliance with all the requirements of LAC 33:V.2805 and must document the age of the drip pad to the extent possible. The plan must be reviewed and certified by an independent, qualified professional engineer.

C. Upon completion of all upgrades, repairs, and modifications, the owner or operator must submit to the Office of Environmental Services the as-built drawings for the drip pad together with a certification by an independent, qualified professional engineer attesting that the drip pad conforms to the drawings.

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 18:1375 (December 1992), amended LR 21:944 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2482 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2462 (October 2005), LR 33:2112 (October 2007), LR 34:

§2805. Design and Operating Requirements

Owners and operators of drip pads must ensure that the pads are designed, installed, and operated in accordance with Subsection A or C of this Section.

A. - A.5.NOTE. ...

B. The owner or operator must obtain and keep on file at the facility a written assessment of the drip pad, reviewed and certified by an independent, qualified professional engineer that attests to the results of the evaluation. The assessment must be reviewed, updated, and recertified annually. The evaluation must document the extent to which the drip pad meets the design and operating standards of this Section, except for Subsection C of this Section.

C. - G. ...

H. The drip pad must be evaluated to determine that it meets the requirements of Subsections A-G of this Section, and the owner or operator must obtain a statement from an independent, qualified professional engineer certifying that the drip pad design meets the requirements of this Section.

I. - P. ...

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 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 21:944 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2482 (November 2000), LR 30:1674 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2462 (October 2005), LR 33:2113 (October 2007), LR 34:627 (April 2008), LR 34:

§2807. Inspections

A. During construction or installation, liners and cover systems (e.g., membranes, sheets, or coatings) must be

inspected for uniformity, damage, and imperfections (e.g., holes, cracks, thin spots, or foreign materials). Immediately after construction or installation, liners must be inspected and certified as meeting the requirements of LAC 33:V.2805 by an independent, qualified professional engineer. The certification must be maintained at the facility as part of the facility operating record. After installation, liners and covers must be inspected to ensure tight seams and joints and the absence of tears, punctures, or blisters.

B. - B.3.Note. ...

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 18:1375 (December 1992), amended LR 21:944 (September 1995), amended by the Office of the Secretary, Legal Affairs Division, LR 34:

Chapter 30. Hazardous Waste Burned in Boilers and Industrial Furnaces

§3007. Interim Status Standards for Burners

A. - C.8.d. ...

D. Periodic Recertifications. The owner or operator must conduct compliance testing and submit to the Office of Environmental Services a recertification of compliance under provisions of Subsection C of this Section within five years from submitting the previous certification or recertification. If the owner or operator seeks to recertify compliance under new operating conditions, he/she must comply with the requirements of Paragraph C.8 of this Section.

E. - J.4. ...

K. Recordkeeping. The owner or operator must keep in the operating record of the facility all information and data required by this Section for five years.

L. ...

[NOTE: 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 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 22:822 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1740 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2483 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2463 (October 2005), LR 33:2114 (October 2007), LR 34:629 (April 2008), LR 34:

§3023. Standards for Direct Transfer

A. - E.3.a.iii. ...

b. The owner or operator must inspect cathodic protection systems, if used, to ensure that they are functioning properly according to the schedule provided in LAC 33:V.4440.E.

3.c. - 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 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 22:826 (September 1996), amended by the Office of Environmental Assessment, LR 31:1572 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 34:

Chapter 31. Incinerators

§3111. Performance Standards

A. - A.1, equation. ...

2. An incinerator burning hazardous waste F020, F021, F022, F023, F026, or F027 must achieve a destruction and removal efficiency (DRE) of 99.9999 percent for each principal organic hazardous constituent (POHC) designated (under LAC 33:V.3109) in its permit. This performance must be demonstrated on POHCs that are more difficult to incinerate than tetra-, penta-, and hexachlorodibenzo-p-dioxins and dibenzofurans. DRE is determined for each POHC from the equation in Paragraph A.1 of this Section.

A.3. - 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 10:200 (March 1984), amended LR 16:220 (March 1990), LR 20:1000 (September 1994), amended by the Office of the Secretary, Legal Affairs Division, LR 34:

§3119. Monitoring and Inspections

A. - C. ...

D. This monitoring and inspection data must be recorded and the records must be placed in the operating record as required by LAC 33:V.1529 and maintained in the operating record for five years.

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 the Secretary, Legal Affairs Division, LR 34:

Chapter 33. Groundwater Protection

§3317. Detection Monitoring Program

An owner or operator required to establish a detection monitoring program under this Subpart must, at a minimum, discharge the following responsibilities.

A. - C. ...

D. The administrative authority will specify the frequencies for collecting samples and conducting statistical tests to determine whether there is statistically significant evidence of contamination for any parameter or hazardous constituent specified in the permit under Subsection A of this Section in accordance with LAC 33:V.3315.G.

E. - G.1. ...

2. Immediately sample the groundwater in all monitoring wells and determine whether constituents listed in LAC 33:V.3325, Table 4 are present, and if so, in what concentrations. However, the administrative authority, on a discretionary basis, may allow sampling for a site-specific subset of constituents from LAC 33:V.3325, Table 4 and other representative/related waste constituents.

3. For any LAC 33:V.3325 compounds found in the analysis pursuant to Paragraph G.2 of this Section, the owner or operator may resample within one month or at an alternative site-specific schedule approved by the administrative authority and repeat the analysis for those compounds detected. If the results of the second analysis confirm the initial results, then these constituents will form the basis for compliance monitoring. If the owner or operator does not resample for the compounds found pursuant to Paragraph G.2 of this Section, the hazardous

constituents found during this initial LAC 33:V.3325, Table 4 analysis will form the basis for compliance monitoring.

G.4. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:280 (April 1984), LR 10:496 (July 1984), LR 16:399 (May 1990), LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2485 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2464 (October 2005), LR 33:2115 (October 2007), LR 34:

§3319. Compliance Monitoring Program

An owner or operator required to establish a compliance monitoring program under this Chapter must, at a minimum, discharge the following responsibilities.

A. - E. ...

F. The administrative authority will specify the frequencies for collecting samples and conducting statistical tests to determine statistically significant evidence of increased contamination in accordance with LAC 33:V.3315.G.

G. Annually, the owner or operator must determine whether additional hazardous constituents listed in LAC 33:V.3325, Table 4 that could possibly be present, but are not on the detection monitoring list in the permit, are actually present in the uppermost aquifer and, if so, at what concentration, pursuant to procedures in LAC 33:V.3317.F. To accomplish this, the owner or operator must consult with the administrative authority to determine, on a case-by-case basis, which sample collection event during the year will involve enhanced sampling, the number of monitoring wells at the compliance point to undergo enhanced sampling, the number of samples to be collected from each of these monitoring wells, and the specific constituents from LAC 33:V.3325, Table 4 for which these samples must be analyzed. If the enhanced sampling event indicates that LAC 33:V.3325, Table 4 constituents that are not already identified in the permit as monitoring constituents are present in the groundwater, the owner or operator may resample within one month or at an alternative site-specific schedule approved by the administrative authority, and repeat the analysis. If the second analysis confirms the presence of new constituents, the owner or operator must report the concentrations of these additional constituents to the administrative authority within seven days after the completion of the second analysis and add them to the monitoring list. If the owner or operator chooses not to resample, then he or she must report the concentrations of these additional constituents to the administrative authority within seven days after completion of the initial analysis and add them to the monitoring list.

H. - J. ...

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 16:399 (May 1990), LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2485 (November 2000), amended by the Office of the

Secretary, Legal Affairs Division, LR 31:2464 (October 2005), LR 33:2115 (October 2007), LR 34:630 (April 2008), LR 34:

Chapter 35. Closure and Post-Closure

Subchapter A. Closure Requirements

§3517. Certification of Closure

A. Within 60 days of completion of closure of each hazardous waste surface impoundment, waste pile, land treatment, and landfill unit, and within 60 days of the completion of final closure, the owner or operator must submit to the Office of Environmental Services, by registered mail, a certification that the hazardous waste management unit or facility, as applicable, has been closed in accordance with the specifications in the approved closure plan. The certification must be signed by the owner or operator and by an independent, qualified professional engineer. Documentation supporting the independent professional engineer's certification must be furnished to the administrative authority upon request until he releases the owner or operator from the financial assurance requirements for closure under LAC 33:V.3707.

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 10:200 (March 1984), amended LR 13:433 (August 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2487 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2466 (October 2005), LR 33:2117 (October 2007), LR 34:630 (April 2008), LR 34:

Subchapter B. Post-Closure Requirements

§3527. Certification of Completion of Post-Closure Care

A. No later than 60 days after completion of the established post-closure care period for each hazardous waste disposal unit, the owner or operator must submit to the Office of Environmental Services, by registered mail, a certification that the post-closure care period for the hazardous waste disposal unit was performed in accordance with the specifications in the approved post-closure plan. The certification must be signed by the owner or operator and an independent, qualified professional engineer. Documentation supporting the independent professional engineer's certification must be furnished to the administrative authority upon request until he releases the owner or operator from the financial assurance requirements for post-closure care under LAC 33:V.3711.I.

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 13:433 (August 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2488 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2467 (October 2005), LR 33:2118 (October 2007), LR 34:

Chapter 37. Financial Requirements

Subchapter A. Closure Requirements

§3707. Financial Assurance for Closure

An owner or operator of each facility must establish financial assurance for closure of the facility. Under this Part, the owner or operator must choose from the options as

specified in Subsections A-F of this Section, which choice the administrative authority must find acceptable based on the application and the circumstances.

A. - H. ...

I. Release of the Owner or Operator from the Requirements of this Section. Within 60 days after receiving certifications from the owner or operator and an independent, qualified professional engineer that final closure has been completed in accordance with the approved closure plan, and for facilities subject to LAC 33:V.3525, after receiving the certification required under LAC 33:V.3525.B.2, the administrative authority will notify the owner or operator in writing that he is no longer required by this Section to maintain financial assurance for final closure of the particular facility, unless the administrative authority has reason to believe that final closure has not been in accordance with the approved closure plan or that the owner or operator has failed to comply with the applicable requirements of LAC 33:V.3525. The administrative authority shall provide the owner or operator a detailed written statement of any such reason to believe that closure has not been in accordance with the approved closure plan or that the owner or operator has failed to comply with the applicable requirements of LAC 33:V.3525.

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 13:433 (August 1987), LR 18:723 (July 1992), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:1511 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2488 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2467 (October 2005), LR 33:2118 (October 2007), LR 34:

Subchapter B. Post-Closure Requirements

§3711. Financial Assurance for Post-Closure Care

The owner or operator of a hazardous waste management unit subject to the requirements of LAC 33:V.3709 must establish financial assurance for post-closure care in accordance with the approved post-closure plan for the facility 60 days prior to the initial receipt of hazardous waste or the effective date of the regulation, whichever is later. Under this Section, the owner or operator must choose from the options as specified in Subsections A-F of this Section, which choice the administrative authority must find acceptable based on the application and the circumstances.

A. - H. ...

I. Release of the Owner or Operator from the Requirements of this Part. Within 60 days after receiving certifications from the owner or operator and an independent, qualified professional engineer that the post-closure care period has been completed for a hazardous waste disposal unit in accordance with the approved plan, the administrative authority will notify the owner or operator that he is no longer required to maintain financial assurance for post-closure care of that unit, unless the administrative authority has reason to believe that post-closure care has not been in accordance with the approved post-closure plan. The administrative authority shall provide the owner or operator with a detailed written statement of any such reason to

believe that post-closure care has not been in accordance with the approved post-closure plan.

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 13:433 (August 1987), LR 14:791 (November 1988), LR 18:723 (July 1992), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:1512 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2490 (November 2000), amended by the Office of Environmental Assessment, LR 31:1572 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2469 (October 2005), LR 33:2120 (October 2007), LR 34:

Subchapter D. Insurance Requirements

§3715. Liability Requirements

A. - D. ...

E. **Period of Coverage.** Within 60 days after receiving certifications from the owner or operator and an independent, qualified professional engineer that final closure has been completed in accordance with the approved closure plan, the administrative authority will notify the owner or operator in writing that he is no longer required by this Section to maintain liability coverage for that facility, unless the administrative authority has reason to believe that closure has not been in accordance with the approved closure plan.

F. - 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 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:686 (July 1985), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 16:399 (May 1990), LR 18:723 (July 1992), repromulgated LR 19:486 (April 1993), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:1513 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2492 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2471 (October 2005), LR 33:2122 (October 2007), LR 34:

Chapter 43. Interim Status

Subchapter D. Manifest System, Recordkeeping, and Reporting

§4365. Additional Reports

A. ...

1. releases, fires, and explosions as specified in LAC 33:V.1513.F.9;

2. - 4. ...

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 17:658 (July 1991), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1744 (September 1998), amended by the Office of the Secretary, Legal Affairs Division, LR 34:

Subchapter E. Groundwater Monitoring

§4367. Applicability

Facilities that have interim status must comply with this Subchapter in lieu of LAC 33:V.Chapter 33.

A. - C. ...

1. within one year after the effective date of these regulations, develop a specific plan, certified by a qualified geologist or geotechnical engineer, that satisfies the requirements of LAC 33:V.4373.G, for an alternate groundwater monitoring system. This plan is to be placed in the facility's operating record and maintained until closure of the facility;

2. not later than one year after the effective date of these regulations, initiate the determinations specified in LAC 33:V.4373.H;

3. prepare a report in accordance with LAC 33:V.4373.I and place it in the facility's operating record and maintain until closure of the facility;

C.4. - E.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), amended by the Office of Waste Services, Hazardous Waste Division, LR 25:484 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2499 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2126 (October 2007), LR 34:633 (April 2008), LR 34:

§4373. Preparation, Evaluation, and Response

A. - E. ...

F. Within 15 days after the notification required in Subsection E of this Section, the owner or operator must develop a specific plan, based on the outline required in Subsection A of this Section and certified by a qualified geologist or geotechnical engineer, for a groundwater quality assessment program at the facility. This plan must be placed in the facility operating record and be maintained until closure of the facility.

G. - H.2. ...

I. The owner or operator must make his first determination required in Subsection H of this Section as soon as technically feasible and prepare a report containing an assessment of the groundwater quality. This report must be placed in the facility operating record and be maintained until closure of the facility.

J. - M. ...

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 14:791 (November 1988), LR 18:723 (July 1992), amended by the Office of the Secretary, LR 24:2248 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2499 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2126 (October 2007), LR 34:

Subchapter F. Closure and Post-Closure

§4387. Certification of Closure

A. Within 60 days of completion of closure of each hazardous waste surface impoundment, waste pile, land treatment, and landfill unit, and within 60 days of completion of final closure, the owner or operator must submit to the Office of Environmental Services, by registered mail, a certification that the hazardous waste management unit or facility, as applicable, has been closed in accordance with the specifications in the approved closure

plan. The certification must be signed by the owner or operator and by an independent, qualified professional engineer. Documentation supporting the independent professional engineer's certification must be furnished to the administrative authority upon request until he releases the owner or operator from the financial assurance requirements for closure under LAC 33:V.4403.H.

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 10:200 (March 1984), amended LR 13:433 (August 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2501 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2475 (October 2005), LR 33:2128 (October 2007), LR 34:

§4395. Completion of Completion of Post-Closure Care

A. No later than 60 days after completion of the established post-closure care period for each hazardous waste disposal unit, the owner or operator must submit to the Office of Environmental Services, by registered mail, a certification that the post-closure care period for the hazardous waste disposal unit was performed in accordance with the specifications in the approved post-closure plan. The certification must be signed by the owner or operator and an independent, qualified professional engineer. Documentation supporting the independent professional engineer's certification must be furnished to the administrative authority upon request until he releases the owner or operator from the financial assurance requirements for post-closure care under LAC 33:V.4407.H.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:433 (August 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2502 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2477 (October 2005), LR 33:2129 (October 2007), LR 34:

Subchapter G. Financial Requirements

§4403. Financial Assurance for Closure

By the effective date of these regulations an owner or operator of each facility must establish financial assurance for closure of the facility. He must choose from the options as specified in Subsections A-E of this Section.

A. - G. ...

H. Release of the Owner or Operator from the Requirements of this Section. Within 60 days after receiving certifications from the owner or operator and an independent, qualified professional engineer that closure has been completed in accordance with the approved closure plan and after receiving the certification required under LAC 33:V.4393.B.2 for facilities subject to LAC 33:V.4393, the administrative authority will notify the owner or operator in writing that he is no longer required by this Section to maintain financial assurance for final closure of the particular facility, unless the administrative authority has reason to believe that the final closure has not been in accordance with the approved closure plan or that the owner

or operator has failed to comply with the applicable requirements of LAC 33:V.4393. The administrative authority shall provide the owner or operator a detailed written statement of any such reason to believe that closure has not been in accordance with the approved closure plan or that the owner or operator has failed to comply with the applicable requirements of LAC 33:V.4393.

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 13:433 (August 1987), LR 14:791 (November 1988), LR 16:219 (March 1990), LR 18:723 (July 1992), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:1520 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2502 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2477 (October 2005), LR 33:2129 (October 2007), LR 34:

§4407. Financial Assurance for Post-Closure Care

An owner or operator of each hazardous waste disposal unit must establish financial assurance for post-closure care of the facility. He must choose from the options as specified in Subsections A-E of this Section.

A. - G. ...

H. Release of the Owner or Operator from the Requirements of this Section. Within 60 days after receiving certifications from the owner or operator and an independent, qualified professional engineer that the post-closure care period has been completed in accordance with the approved post-closure plan, the administrative authority will notify the owner or operator in writing that he is no longer required by this Section to maintain financial assurance for post-closure care of that unit, unless the administrative authority has reason to believe that post-closure care has not been in accordance with the approved post-closure plan. The administrative authority will provide the owner or operator a detailed written statement of any such reason to believe that post-closure care has not been in accordance with the approved post-closure plan.

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 13:433 (August 1987), LR 18:723 (July 1992), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:1521 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2504 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2479 (October 2005), LR 33:2131 (October 2007), LR 34:

§4411. Liability Requirements

A. - D. ...

E. Period of Coverage. Within 60 days after receiving certifications from the owner or operator and an independent, qualified professional engineer that final closure has been completed in accordance with the approved closure plan, the administrative authority will notify the owner or operator in writing that he is no longer required by this Section to maintain liability coverage for that facility, unless the administrative authority has reason to believe that closure has not been in accordance with the approved closure plan.

F. - 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 10:200 (March 1984), amended LR 13:433 (August 1987), LR 16:399 (May 1990), LR 18:723 (July 1992), repromulgated LR 19:627 (May 1993), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:1521 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2506 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2481 (October 2005), LR 33:2133 (October 2007), LR 34:

Subchapter I. Tanks

§4433. Assessment of Existing Tank System's Integrity

A. For each existing tank system that does not have secondary containment meeting the requirements of these regulations, the owner or operator must determine that the tank system is not leaking or is unfit for use. Except as provided in Subsection C of this Section, the owner or operator must obtain and keep on file at the facility a written assessment reviewed and certified by an independent, qualified professional engineer in accordance with LAC 33:V.513 that attests to the tank system's integrity by November 20, 1988.

B. - B.5.a. ...

b. for other than non-enterable underground tanks and for ancillary equipment, this assessment must be either a leak test, as described in Subparagraph B.5.a of this Section, or an internal inspection and/or other tank integrity examination certified by an independent, qualified professional engineer in accordance with LAC 33:V.513 that addresses cracks, leaks, corrosion, and erosion.

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 10:200 (March 1984), amended LR 13:651 (November 1987), LR 18:723 (July 1992), amended by the Office of the Secretary, Legal Affairs Division, LR 34:

§4435. Design and Installation of New Tank Systems or Components

A. Owners or operators of new tank systems or components must ensure that the foundation, structural support, seams, connections, and pressure controls (if applicable) are adequately designed and that the tank system has sufficient structural strength, compatibility with the waste(s) to be stored or treated, and corrosion protection so that it will not collapse, rupture, or fail. The owner or operator must obtain a written assessment reviewed and certified by an independent, qualified professional engineer in accordance with LAC 33:V.513 attesting that the system has sufficient structural integrity and is acceptable for the storing and treating of hazardous waste. This assessment must include, at a minimum, the following information:

1. - 5.c. ...

B. The owner or operator of a new tank system must ensure that proper handling procedures are adhered to in order to prevent damage to the system during installation. Prior to covering, enclosing, or placing a new tank system or component in use, an independent, qualified installation inspector or an independent, qualified professional engineer,

either of whom is trained and experienced in the proper installation of tank systems, must inspect the system or component for the presence of any of the following items:

B.1. - G. ...

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 13:651 (November 1987), LR 18:723 (July 1992), amended by the Office of the Secretary, Legal Affairs Division, LR 34:

§4437. Containment and Detection of Releases

A. ...

1. for all new and existing tank systems or components, prior to their being put into service;

2. for tank systems that store or treat materials that become hazardous wastes, within two years of the hazardous waste listing, or when the tank system has reached 15 years of age, whichever comes later.

B. Secondary containment systems must be:

B.1. - I.1. ...

2. For other than non-enterable underground tanks and for all ancillary equipment, an annual leak test, as described in Paragraph I.1 of this Section, or an internal inspection or other tank integrity examination by an independent, qualified professional engineer that addresses cracks, leaks, corrosion, and erosion must be conducted at least annually. The owner or operator must remove the stored waste from the tank, if necessary, to allow the condition of all internal tank surfaces to be assessed.

3. - 4. ...

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 13:651 (November 1987), LR 14:790 (November 1988), LR 16:614 (July 1990), LR 18:723 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2507 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2482 (October 2005), LR 33:2134 (October 2007), LR 34:

§4438. Special Requirements for Generators of between 100 and 1,000 kg/month That Accumulate Hazardous Waste in Tanks

A. - B.4.NOTE. ...

C. Except as noted in Subsection D of this Section, generators who accumulate between 100 and 1,000 kg/month of hazardous waste in tanks must inspect, where present:

1. - 5.NOTE. ...

D. Generators who accumulate between 100 and 1,000 kg/month of hazardous waste in tanks or tank systems that have full secondary containment and that either use leak detection equipment to alert facility personnel to leaks, or implement established workplace practices to ensure that leaks are promptly identified, must inspect at least weekly, where applicable, the areas identified in Paragraphs C.1-5 of this Section. Use of the alternate inspection schedule must be documented in the facility's operating record. This documentation must include a description of the established workplace practices at the facility.

E. Generators of between 100 and 1,000 kg/month accumulating hazardous waste in tanks must, upon closure

of the facility, remove all hazardous waste from tanks, discharge control equipment, and discharge confinement structures.

[NOTE: At closure, as throughout the operating period, unless the owner or operator can demonstrate, in accordance with LAC 33:V.109.Hazardous Waste.4 or 5, that any solid waste removed from the tank is not a hazardous waste, the owner or operator becomes a generator of hazardous waste and must manage it in accordance with all applicable requirements of LAC 33:V.Chapters 11, 13, and 43.]

F. Generators of between 100 and 1,000 kg/month must comply with the following special requirements for ignitable or reactive waste:

1. ignitable or reactive waste must not be placed in a tank, unless:

a. the waste is treated, rendered, or mixed before or immediately after placement in a tank so that the resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under LAC 33:V.4903.B or D, and LAC 33:V.4321.B is complied with; or

b. the waste is stored or treated in such a way that it is protected from any material or conditions that may cause the waste to ignite or react; or

c. the tank is used solely for emergencies.

2. the owner or operator of a facility that treats or stores ignitable or reactive waste in covered tanks must comply with the buffer zone requirements for tanks contained in Tables 2-1 through 2-6 of the National Fire Protection Association's *Flammable and Combustible Liquids Code*, (1977 or 1981) (incorporated by reference, see LAC 33:V.110).

G. Generators of between 100 and 1,000 kg/month must comply with the following special requirements for incompatible wastes:

1. incompatible wastes, or incompatible wastes and materials, must not be placed in the same tank, unless LAC 33:V.4321.B is complied with; and

2. hazardous waste must not be placed in an unwashed tank that previously held an incompatible waste or material, unless LAC 33:V.4321.B is complied with.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:714 (May 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 34:

§4440. Inspections

A. The owner or operator must inspect, where present, at least once each operating day data gathered from monitoring and leak detection equipment (e.g., pressure or temperature gauges, monitoring wells) to ensure that the tank system is being operated according to its design.

B. Except as noted under Subsection C of this Section, the owner or operator must inspect at least once each operating day:

1. overflow/spill control equipment (e.g., waste-feed cutoff systems, bypass systems, and drainage systems) to ensure that it is in good working order;

2. the aboveground portions of the tank system, if any, to detect corrosion or releases of waste; and

3. the construction materials and the area immediately surrounding the externally accessible portion of the tank

system, including the secondary containment structure (e.g., dikes) to detect erosion or signs of releases of hazardous waste (e.g., wet spots, dead vegetation).

C. Owners or operators of tank systems that either use leak detection equipment to alert facility personnel to leaks, or implement established workplace practices to ensure that leaks are promptly identified, must inspect at least weekly those areas described in Paragraphs B.1-3 of this Section. Use of the alternate inspection schedule must be documented in the facility's operating record. This documentation must include a description of the established workplace practices at the facility.

D. Ancillary equipment that is not provided with secondary containment, as described in LAC 33:V.4437.F.1-4, must be inspected at least once each operating day.

E. The owner or operator must inspect cathodic protection systems, if present, according to, at a minimum, the following schedule to ensure that they are functioning properly:

1. the proper operation of the cathodic protection system must be confirmed within six months after initial installation, and annually thereafter; and

2. all sources of impressed current must be inspected and/or tested, as appropriate, at least bimonthly (i.e., every other month).

F. The owner or operator must document in the operating record of the facility an inspection of those items in Subsections A and 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 Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:651 (November 1987), LR 18:723 (July 1992), amended by the Office of the Secretary, Legal Affairs Division, LR 34:

§4441. Response to Leaks or Spills and Disposition of Leaking or Unfit-for-Use Tank Systems

A tank system or secondary containment system from which there has been a leak or spill, or which is unfit for use, must be removed from service immediately, and the owner or operator must satisfy the following requirements.

A. - E.4. ...

F. Certification of Major Repairs. If the owner or operator has repaired a tank system in accordance with Subsection E of this Section, and the repair has been extensive (e.g., installation of an internal liner; repair of a ruptured primary containment or secondary containment vessel), the tank system must not be returned to service unless the owner/operator has obtained a certification by an independent, qualified professional engineer in accordance with LAC 33:V.513 that the repaired system is capable of handling hazardous wastes without release for the intended life of the system. This certification is to be placed in the operating record and maintained until closure of the facility.

[Note: The administrative authority may, on the basis of any information received that there is or has been a release of hazardous waste or hazardous constituents into the environment, issue an order requiring corrective action or such other response as deemed necessary to protect human health or the environment.]

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

13:651 (November 1987), LR 16:614 (July 1990), LR 18:723 (July 1992), amended by the Office of the Secretary, Legal Affairs Division, LR 34:

Subchapter J. Surface Impoundments

NOTE: §4451 has moved to §4452.

§4452. Response Actions

[Formerly §4451]

A. The owner or operator of surface impoundment units subject to LAC 33:V.4462.A must develop and keep on-site until closure of the facility a response action plan. The response action plan must set forth the actions to be taken if the action leakage rate has been exceeded. At a minimum, the response action plan must describe the actions specified in Subsection B of this Section.

B. - B.5. ...

6. within 30 days after the notification that the action leakage rate has been exceeded, submit to the administrative authority the results of the analyses specified in Paragraphs B.3-5 of this Section, the results of actions taken, and actions planned. Monthly thereafter, as long as the flow rate in the leak detection system exceeds the action leakage rate, the owner or operator must submit to the administrative authority a report summarizing the results of any remedial actions taken and actions planned.

C. To make the leak and/or remediation determinations in Paragraphs B.3-5 of this Section, the owner or operator must:

1. - 4. ...

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 21:266 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2508 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2483 (October 2005), LR 33:2135 (October 2007), LR 34:

§4462. Design Requirements

A. The owner or operator of each new surface impoundment unit, each lateral expansion of a surface impoundment unit, and each replacement of an existing surface impoundment unit must install two or more liners and a leachate collection and removal system between the liners and operate the leachate collection and removal system in accordance with LAC 33:V.2903.J, unless exempted under LAC 33:V.2903.C, K, or L.

B. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 16:220 (March 1990), amended LR 17:368 (April 1991), LR 18:723 (July 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2508 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2483 (October 2005), LR 33:2135 (October 2007), LR 34:

Subchapter K. Waste Piles

§4472. Response Actions

A. The owner or operator of waste pile units subject to LAC 33:V.4476 must develop and keep on-site until closure of the facility a response action plan. The response action plan must set forth the actions to be taken if the action

leakage rate has been exceeded. At a minimum, the response action plan must describe the actions specified in Subsection B of this Section.

B. - C.4. ...

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 21:266 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2508 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2483 (October 2005), LR 33:2135 (October 2007), LR 34:

Subchapter L. Land Treatment

§4489. Closure and Post-Closure

A. - D.4. ...

E. For the purpose of complying with LAC 33:V.4387, when closure is completed the owner or operator may submit to the Office of Environmental Services certification both by the owner or operator and by an independent, qualified soil scientist in lieu of an independent, qualified professional engineer, that the facility has been closed in accordance with the specifications in the approved closure plan.

F. - F.4. ...

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 18:723 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2509 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2483 (October 2005), LR 33:2135 (October 2007), LR 34:

Subchapter M. Landfills

§4498. Response Actions

A. The owner or operator of landfill units subject to LAC 33:V.4512.A must develop and keep on-site until closure of the facility a response action plan. The response action plan must set forth the actions to be taken if the action leakage rate has been exceeded. At a minimum, the response action plan must describe the actions specified in Subsection B of this Section.

B. - C.4. ...

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 21:266 (March 1995), amended by the Office of the Secretary, Legal Affairs Division, LR 34:

§4507. Special Requirements for Liquid Waste

A. The placement of bulk or noncontainerized liquid hazardous waste or hazardous waste containing free liquids (whether or not sorbents have been added) in any landfill is prohibited.

B. Containers holding free liquids must not be placed in a landfill unless:

1. all free-standing liquid:

a. has been removed by decanting or other methods;

b. has been mixed with sorbent or solidified so that free-standing liquid is no longer observed; or

c. has been otherwise eliminated; or

2. the container is very small, such as an ampule; or

3. the container is designed to hold free liquids for use other than storage, such as a battery or capacitor; or

4. the container is a lab pack as defined in LAC 33:V.4511 and is disposed of in accordance with LAC 33:V.4511.

C. To demonstrate the absence or presence of free liquids in either a containerized or a bulk waste, the following test must be used: Method 9095B (Paint Filter Liquids Test) as described in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, as incorporated by reference in LAC 33:V.110.

D. The date for compliance with Subsection A of this Section is November 19, 1981. The date for compliance with Subsection B of this Section is March 22, 1982.

E. Sorbents used to treat free liquids to be disposed of in landfills must be nonbiodegradable. Nonbiodegradable sorbents are: materials listed or described in Paragraph E.1 of this Section; materials that pass one of the tests in Paragraph E.2 of this Section; or materials that are determined by EPA to be nonbiodegradable through the petition process in LAC 33:V.105.

1. Nonbiodegradable Sorbents. The following materials are nonbiodegradable sorbents:

a. inorganic minerals, other inorganic materials, and elemental carbon (e.g., aluminosilicates, clays, smectites, Fuller's earth, bentonite, calcium bentonite, montmorillonite, calcined montmorillonite, kaolinite, micas [illite], vermiculites, zeolites, calcium carbonate [organic free limestone]; oxides/hydroxides, alumina, lime, silica [sand], diatomaceous earth, perlite [volcanic glass]; expanded volcanic rock, volcanic ash, cement kiln dust, fly ash, rice hull ash, and activated charcoal/activated carbon); or

b. high molecular weight synthetic polymers (e.g., polyethylene, high-density polyethylene (HDPE), polypropylene, polystyrene, polyurethane, polyacrylate, polynorborene, polyisobutylene, ground synthetic rubber, cross-linked allylstyrene, and tertiary butyl copolymers). This does not include polymers derived from biological material or polymers specifically designed to be degradable; or

c. mixtures of these nonbiodegradable materials.

2. Tests for Nonbiodegradable Sorbents

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; or

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: [CO₂ Evolution (Modified Sturm Test)].

F. The placement of any liquid that 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:

1. 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

2. placement in such owner's or operator's landfill will not present a risk of contamination of any *underground source of drinking water*, as 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, 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), amended by the Office of the Secretary, Legal Affairs Division, LR 34:634 (April 2008), LR 34:

§4512. Design and Operating Requirements

A. The owner or operator of each new landfill unit, each lateral expansion of a landfill unit, and each replacement of an existing landfill unit, must install two or more liners and a leachate collection and removal system above and between such liners and operate the leachate collection and removal systems, in accordance with LAC 33:V.2503.L, unless exempted by Subsection C, D, or E of this Section.

B. - I. ...

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 16:220 (March 1990), amended LR 18:723 (July 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2509 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2483 (October 2005), LR 33:2135 (October 2007), LR 34:634 (April 2008), LR 34:

Subchapter T. Containment Buildings

§4701. Applicability

A. The requirements of this Subchapter apply to owners or operators who store or treat hazardous waste in units designed and operated under LAC 33:V.4703. The owner or operator is not subject to the definition of land disposal in RCRA Section 3004(k) provided that the unit:

1. - 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 21:266 (March 1995), amended LR 21:944 (September 1995), amended by the Office of the Secretary, Legal Affairs Division, LR 34:635 (April 2008), LR 34:

§4703. Design and Operating Standards

A. - C.1.d. ...

2. obtain and keep on-site a certification by a qualified professional engineer that the containment building design meets the requirements of Subsections A-C of this Section;

C.3. - E. ...

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 21:266 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2509 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2136 (October 2007), LR 34:635 (April 2008), LR 34:

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

A public hearing will be held on May 27, 2008, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 North Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Parking in the Galvez Garage is free with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by HW100ft. Such comments must be received no later than May 27, 2008, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. The comment period for this rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of HW100ft. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM
Executive Counsel

0804#091

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary Legal Affairs Division

RCRA XVI Management, Testing, and Methods Innovation (LAC 33:V.105, 109, 110, 529, 535, 537, 1127, 1516, 1703, 1711, 1741, 1901, 2223, 2299, 2603, 3001, 3005, 3013, 3025, 3115, 3325, 3807, 3823, 3845, 4003, 4033, 4047, 4067, 4357, 4431, 4727, 4901, 4903, 4909, and 4999; and LAC 33:VII.115 and 3005) (MM006ft)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Environmental Quality regulations, LAC 33:V.105, 109, 110, 529, 535, 537, 1127, 1516, 1703, 1711, 1741, 1901, 2223, 2299, 2603, 3001, 3005, 3013, 3025, 3115, 3325, 3807, 3823, 3845, 4003, 4033, 4047, 4067, 4357, 4431, 4727, 4901, 4903, 4909, and 4999; and LAC 33:VII.115 and 3005 (Log #MM006ft).

This proposed Rule is identical to federal regulations found in 70 FR 34538-34592 (June 14, 2005), which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development

Section at (225) 219-3550 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the proposed Rule. This Rule will be promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

This Rule will promulgate the RCRA XVI cluster regarding waste management, testing and monitoring activities, methods innovation, an update to SW-846, and in the related Sections, recordkeeping and reporting requirements to reduce the paperwork burden. This Rule is not adding additional requirements to the regulations. Instead, these amendments will allow more flexibility when conducting RCRA-related sampling and analysis under the hazardous and nonhazardous solid waste regulations. Other clarifications and technical amendments are being made that will make it easier and more cost-effective to comply with the hazardous waste regulations. A testing requirement under the Clean Air Act in the National Emission Standards for Hazardous Air Pollutants for hazardous waste combustors is being amended. This action is needed in order for the state hazardous waste regulations to maintain equivalency with the federal regulations and to coincide with the federal regulations in implementing a performance-based measurement system in the RCRA program. The basis and rationale for this proposed Rule are to mirror the federal regulations. This proposed Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

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 the 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. Wastes that are excluded from regulation are found in this Section.

A. - D.1.i.iii.(d). ...

(e). prior to operating pursuant to this exclusion, the plant owner or operator submits to the Office of Environmental Services a one-time notification stating that the plant intends to claim the exclusion, giving the date on which the plant intends to begin operating under the exclusion, and containing the following language:

"I have read the applicable regulation establishing an exclusion for wood preserving wastewaters and spent wood preserving solutions and understand it requires me to comply at all times with the conditions set out in the regulation."

The plant must maintain a copy of that document in its on-site records until closure of the facility. The exclusion applies so long as the plant meets all of the conditions. If the plant goes out of compliance with any condition, it may apply to the administrative authority for reinstatement. The administrative authority may reinstate the exclusion upon

finding that the plant has returned to compliance with all conditions and that violations are not likely to recur;

1.j. - 6.h. ...

i. the facility prepares and submits a report to the Office of Environmental Services, by March 15 of each year, that includes the following information for the previous calendar year:

D.6.i.i. - H. ...

I. Petitions for Equivalent Testing or Analytical Methods

1. Any person seeking approval of an equivalent testing or analytical method may petition for a regulatory amendment under this Subsection and LAC 33:I.Chapter 9. To be successful, the petitioner must demonstrate to the satisfaction of the administrative authority that the proposed method is equal to or superior to the corresponding method prescribed in these regulations, in terms of its sensitivity, accuracy, and precision (i.e., reproducibility).

2. - 2.b. ...

c. comparative results obtained from using the proposed method with those obtained from using the relevant or corresponding methods prescribed in these regulations;

I.2.d. - M.3.a. ...

i. does not contain the constituent or constituents (as defined in LAC 33:V.4901.G, Table 6) that caused the administrative authority to list the waste; or

M.3.a.ii. - O.2.b.i. ...

ii. the extent to which the material is handled before reclamation to minimize loss;

iii. the time periods between generating the material and its reclamation and between reclamation and return to the original primary production process;

iv. the location of the reclamation operation in relation to the production process;

v. whether the reclaimed material is used for the purpose for which it was originally produced when it is returned to the original process, and whether it is returned to the process in substantially its original form;

vi. whether the person who generates the material also reclaims it; and

vii. other relevant factors.

c. The administrative authority may grant requests for a variance from classifying as a solid waste those materials that have been reclaimed but must be reclaimed further before recovery is completed if, after initial reclamation, the resulting material is commodity-like (even though it is not yet a commercial product, and has to be reclaimed further). This determination will be based on the following factors:

O.2.c.i. - P.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq., and in particular, 2186(A)(2).

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, LR 16:220 (March 1990), LR 16:398 (May 1990), LR 16:614 (July 1990), LR 17:362, 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, 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, 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 24:298 (February 1998), LR 24:655 (April 1998), LR 24:1093 (June 1998), LR 24:1687, 1759 (September 1998), LR 25:431 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:268 (February 2000), LR 26:2464 (November 2000), LR 27:291 (March 2001), LR 27:706 (May 2001), LR 29:317 (March 2003), LR 30:1680 (August 2004), amended by the Office of Environmental Assessment, LR 30:2463 (November 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2451 (October 2005), LR 32:605 (April 2006), LR 32:821 (May 2006), LR 33:450 (March 2007), LR 33:2097 (October 2007), LR 34:614 (April 2008), LR 34:

§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.

Hazardous Waste—a *solid waste*, as defined in this Section, is a hazardous waste if:

1. - 2.c.vii. ...

d. Rebuttable Presumption for Used Oil. Used oil containing more than 1,000 ppm total halogens is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in LAC 33:V.4901. Persons may rebut this presumption by demonstrating that the used oil does not contain hazardous waste (e.g., by showing that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in LAC 33:V.3105, Table 1):

2.d.i. - 6.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 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, 791 (November 1988), LR 15:378 (May 1989), LR 15:737 (September 1989), LR 16:218, 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 by the Office of Solid and Hazardous Waste, Hazardous Waste Division, 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), LR 24:1101 (June 1998), LR 24:1688 (September 1998), LR 25:433 (March 1999), repromulgated LR 25:853 (May 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:269 (February 2000), LR 26:2465 (November 2000), LR 27:291 (March 2001), LR 27:708 (May 2001), LR 28:999 (May 2002), LR 28:1191 (June 2002), LR 29:318 (March 2003); amended by the Office of the Secretary, Legal Affairs Division, LR 31:2452 (October 2005), LR 31:3116 (December 2005), LR 32:606 (April 2006), LR 32:822 (May 2006),

§110. References

A. When used in LAC 33:V.Subpart 1 the publications and methods listed in this Section shall be used to comply with these regulations.

B. The following materials are available for purchase from the American Society for Testing and Materials, 100 Barr Harbor Drive, Box C700, West Conshohocken, PA 19428-2959, or go to: <http://www.astm.org>:

1. ASTM D-3278-78, "Standard Test Methods for Flash Point for Liquids by Setaflash Closed Tester," approved for LAC 33:V.4903.B;

2. ASTM D-93-79 or D-93-80, "Standard Test Methods for Flash Point by Pensky-Martens Closed Cup Tester," approved for LAC 33:V.4903.B;

3. ASTM D-1946-82, "Standard Method for Analysis of Reformed Gas by Gas Chromatography," approved for LAC 33:V.1709 and 4555;

4. ASTM D 2382-83, "Standard Test Method for Heat of Combustion of Hydrocarbon Fuels by Bomb Calorimeter (High-Precision Method)," approved for LAC 33:V.1709 and 4555;

5. ASTM E 169-87, "Standard Practices for General Techniques of Ultraviolet-Visible Quantitative Analysis," approved for LAC 33:V.1741;

6. ASTM E 168-88, "Standard Practices for General Techniques of Infrared Quantitative Analysis," approved for LAC 33:V.1741;

7. ASTM E 260-85, "Standard Practice for Packed Column Gas Chromatography," approved for LAC 33:V.1741;

8. ASTM D 2267-88, "Standard Test Method for Aromatics in Light Naphthas and Aviation Gasolines by Gas Chromatography," approved for LAC 33:V.1741;

9. ASTM D 2879-92, "Standard Test Method for Vapor Pressure—Temperature Relationship and Initial Decomposition Temperature of Liquids by Isoteniscope," approved for LAC 33:V.4727;

10. ASTM E 926-88, "Standard Test Methods for Preparing Refuse-Derived Fuel (RDF) Samples for Analyses of Metals," Test Method C—Bomb, Acid Digestion Method.

C. The following materials are available for purchase from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161; or from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512-1800:

1. "APTI Course 415: Control of Gaseous Emissions," EPA Publication EPA-450/2-81-005, December 1981, approved for LAC 33:V.1713 and 4559;

2. "Method 1664, Revision A, n-Hexane Extractable Material (HEM; Oil and Grease) and Silica Gel Treated n-Hexane Extractable Material (SGT-HEM; Non-polar Material) by Extraction and Gravimetry, PB99-121949," approved for LAC 33:V.4999.Appendix E;

3. the following methods as published in the test methods compendium known as *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, Third Edition. A suffix "A" in the method number indicates revision one (the method has been revised once). A suffix "B" in the method number indicates revision two (the method has been revised twice). A suffix

"C" in the method number indicates revision three (the method has been revised three times). A suffix "D" in the method number indicates revision four (the method has been revised four times):

a. Method 0010, dated September 1986 and in the Basic Manual, approved for LAC 33:V.4999.Appendix E;

b. Method 0020, dated September 1986 and in the Basic Manual, approved for LAC 33:V.4999.Appendix E;

c. Method 0030, dated September 1986 and in the Basic Manual, approved for LAC 33:V.4999.Appendix E;

d. Method 1320, dated September 1986 and in the Basic Manual, approved for LAC 33:V.4999.Appendix E;

e. Method 1311, dated September 1992 and in Update I, approved for LAC 33:V.2223, 2245, 2247, 4903.E, and 4999.Appendix E;

f. Method 1330A, dated September 1992 and in Update I, approved for LAC 33:V.4999.Appendix E;

g. Method 1312 dated September 1994 and in Update II, approved for LAC 33:V.4999.Appendix E;

h. Method 0011, dated December 1996 and in Update III, approved for LAC 33:V.3099.Appendix I and 4999.Appendix E;

i. Method 0023A, dated December 1996 and in Update III, approved for LAC 33:V.3009, 3099.Appendix I, and 4999.Appendix E;

j. Method 0031, dated December 1996 and in Update III, approved for LAC 33:V.4999.Appendix E;

k. Method 0040, dated December 1996 and in Update III, approved for LAC 33:V.4999.Appendix E;

l. Method 0050, dated December 1996 and in Update III, approved for LAC 33:V.3015, 3099.Appendix I, and 4999.Appendix E;

m. Method 0051, dated December 1996 and in Update III, approved for LAC 33:V.3015, 3099.Appendix I, and 4999.Appendix E;

n. Method 0060, dated December 1996 and in Update III, approved for LAC 33:V.3013, 3099.Appendix I, and 4999.Appendix E;

o. Method 0061, dated December 1996 and in Update III, approved for LAC 33:V.3013, 3099.Appendix I, and 4999.Appendix E;

p. Method 9071B, dated April 1998 and in Update IIIA, approved for LAC 33:V.4999.Appendix E;

q. Method 1010A, dated November 2004 and in Update IIIB, approved for LAC 33:V.4999.Appendix E;

r. Method 1020B, dated November 2004 and in Update IIIB, approved for LAC 33:V.4999.Appendix E;

s. Method 1110A, dated November 2004 and in Update IIIB, approved for LAC 33:V.4903.C and 4999.Appendix E;

t. Method 1310B, dated November 2004 and in Update IIIB, approved for LAC 33:V.4999.Appendix E;

u. Method 9010C, dated November 2004 and in Update IIIB, approved for LAC 33:V.2299, Tables 2, 7, and 10, and 4999.Appendix E;

v. Method 9012B, dated November 2004 and in Update IIIB, approved for LAC 33:V.2299, Tables 2, 7, and 10, and 4999.Appendix E;

w. Method 9040C, dated November 2004 and in Update IIIB, approved for LAC 33:V.4903.C and 4999.Appendix E;

x. Method 9045D, dated November 2004 and in Update IIIB, approved for LAC 33:V.4999.Appendix E;

y. Method 9060A, dated November 2004 and in Update IIIB, approved for LAC 33:V.1711, 1741, 4557, 4587, and 4999.Appendix E;

z. Method 9070A, dated November 2004 and in Update IIIB, approved for LAC 33:V.4999.Appendix E;

aa. Method 9095B, dated November 2004 and in Update IIIB, approved, LAC 33:V.1901, 2515, 4431, 4507, 4721, and 4999.Appendix E.

D. The following materials are available for purchase from the National Fire Protection Association, 1 Batterymarch Park, Box 9101, Quincy, MA 02269-9101:

1. "Flammable and Combustible Liquids Code" (1977 or 1981), approved for LAC 33:V.1917, and 4443;

2. Reserved.

E. The following materials are available for purchase from the American Petroleum Institute, 1220 L Street, Northwest, Washington, DC 20005:

1. API Publication 2517, Third Edition, February 1989, "Evaporative Loss from External Floating-Roof Tanks," approved for LAC 33:V.4727;

2. Reserved.

F. The following materials are available for purchase from the Environmental Protection Agency, Research Triangle Park, NC:

1. "Screening Procedures for Estimating the Air Quality Impact of Stationary Sources, Revised," October 1992, EPA Publication Number EPA-450/R-92-019, approved for LAC 33:V.3099.Appendix I;

2. Reserved.

G. The following materials are available for purchase from the Organisation for Economic Co-operation and Development, Environment Directorate, 2 rue Andre Pascal, 75775 Paris Cedex 16, France:

1. 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), approved for LAC 33:V.1127.I;

2. Reserved.

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), LR 24:1690 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:270 (February 2000), LR 27:291 (March 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 34:

Chapter 5. Permit Application Contents

Subchapter E. Specific Information Requirements

§529. Specific Part II Information Requirements for Incinerators

Except as LAC 33:V.Chapter 31 and Subsection F of this Section provide otherwise, owners and operators of facilities that incinerate hazardous waste must fulfill the requirements of Subsection A, B, or C of this Section:

A. - C.1.b. ...

c. an identification of any hazardous organic constituents listed in LAC 33:V.3105, Table 1, that are present in the waste to be burned, except that the applicant need not analyze for constituents listed in LAC 33:V.3105, Table 1, which would reasonably not be expected to be found in the waste. The constituents excluded from analysis must be identified and the basis for their exclusion stated. The waste analysis must rely on appropriate analytical techniques;

d. an approximate quantification of the hazardous constituents identified in the waste, within the precision produced by appropriate analytical methods;

C.1.e. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(24)(a) and 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 22:817 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 25:2199 (November 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:292 (March 2001), LR 29:319 (March 2003), amended by the Office of Environmental Assessment, LR 31:1571 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 34:620 (April 2008), LR 34:

§535. Specific Part II Information Requirements for Boilers and Industrial Furnaces Burning Hazardous Waste for Energy or Material Recovery and Not for Destruction

A. - A.2.b.i. ...

ii. results of analyses of each waste to be burned, documenting the concentrations of nonmetal compounds listed in LAC 33:V.4901.G, Table 6, except for those constituents that would reasonably not be expected to be in the waste. The constituents excluded from analysis must be identified and the basis for their exclusion explained. The analysis must rely on appropriate analytical techniques;

A.2.b.iii. - G.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 15:737 (September 1989), amended LR 18:1375 (December 1992), LR 21:266 (March 1995), LR 22:817 (September 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:292 (March 2001), LR 29:319 (March 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 34:621 (April 2008), LR 34:

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.)

A. - B.2.b.ii. ...

(a). an identification of any hazardous organic constituents listed in LAC 33:V.3105, Table 1, that are present in the feed stream, except that the applicant need not analyze for constituents listed in LAC 33:V.3105, Table 1, that would reasonably not be expected to be found in the

hazardous waste. The constituents excluded from analysis must be identified and the basis for this exclusion explained. The waste analysis must be conducted in accordance with appropriate analytical techniques;

(b) an approximate quantification of the hazardous constituents identified in the hazardous waste, within the precision produced by appropriate analytical methods;

B.2.b.ii.(c). - D.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 15:737 (September 1989), amended LR 18:1375 (December 1992), LR 21:266 (March 1995), LR 22:818, 832 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:657 (April 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2468 (November 2000), LR 27:292 (March 2001), LR 29:320 (March 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2455 (October 2005), LR 33:2101 (October 2007), LR 34:622 (April 2008), LR 34:

Chapter 11. Generators

Subchapter B. Transfrontier Shipments of Hazardous Waste

§1127. Transfrontier Shipments of Hazardous Waste for Recovery within the OECD

A. - A.2. ...

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 Paragraph A.1 of this Section. The green, amber, and red lists are incorporated by reference in LAC 33:V.110.

B.1.a. - I.4. ...

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), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2471 (November 2000), LR 27:293 (March 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2103 (October 2007), LR 34:72 (January 2008), LR 34:

Chapter 15. Treatment, Storage, and Disposal Facilities

§1516. Manifest System for Treatment, Storage, and Disposal (TSD) Facilities

A. - C.6.a.iii. ...

iv. Copy the manifest tracking number in Item 4 of the new manifest to the manifest reference number line in the Discrepancy block of the old manifest (Item 18a).

C.6.a.v. - D.7.Comment....

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 32:825 (May 2006), amended LR 33:2104 (October 2007), LR 34:623 (April 2008), LR 34:

Chapter 17. Air Emission Standards

§1703. Definitions

A. As used in this Chapter, all terms not defined herein shall have the meanings given them in LAC 33:V.109.

Waste Stabilization Process—any physical or chemical process used to either reduce the mobility of hazardous constituents in a hazardous waste or eliminate free liquids as determined by Test Method 9095B (Paint Filter Liquids Test) in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846 as incorporated by reference in LAC 33:V.110. A waste stabilization process includes mixing the hazardous waste with binders or other materials and curing the resulting hazardous waste and binder mixture. Other synonymous terms used to refer to this process are *waste fixation* and *waste solidification*. This does not include the adding of absorbent materials to the surface of a waste, without mixing, agitation, or subsequent curing, to absorb free liquid.

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 17:658 (July 1991), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1696 (September 1998), LR 25:437 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:278 (February 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 34:

Subchapter A. Process Vents

§1711. Test Methods and Procedures

A. - C.1.a. ...

b. Method 18 or Method 25A in LAC 33:III.6071 for organic content. If Method 25A is used, the organic hazardous air pollutants (HAP) used as the calibration gas must be the single organic HAP representing the largest percent by volume of the emissions. The use of Method 25A is acceptable if the response from the high-level calibration gas is at least 20 times the standard deviation of the response from the zero calibration gas when the instrument is zeroed on the most sensitive scale.

c. ...

d. Total organic mass flow rates shall be determined by one of the following equations:

i. for sources utilizing Method 18:

$$E_h = Q_{2sd} \left[\sum_{i=1}^n C_i MW_i \right] [0.0416] [10^{-6}]$$

where:

- E_h = total organic mass flow rate, kg/h
 Q_{2sd} = volumetric flow rate of gases entering or exiting control device, as determined by Method 2, dscm/h
 n = number of organic compounds in the vent gas
 C_i = organic concentration in ppm, dry basis, of compound i in the vent gas, as determined by Method 18
 MW_i = molecular weight of organic compound i in the vent gas, kg/kg-mol

0.0416 = conversion factor for molar volume, kg-mol/m³ (@ 293 K and 760 mm Hg)

10⁻⁶ = conversion from ppm

ii. for sources utilizing Method 25A:

$$E_h = (Q)(C)(MW)(0.0416)(10^{-6})$$

where:

E_h = total organic mass flow rate, kg/h

Q = volumetric flow rate of gases entering or exiting control device, as determined by Method 2, dscm/h

C = organic concentration in ppm, dry basis, as determined by Method 25A

MW = molecular weight of propane, 44

0.0416 = conversion factor for molar volume, kg-mol/m³ (@ 293 K and 760 mm Hg)

10⁻⁶ = conversion from ppm

e. The annual total organic emission rate shall be determined by the following equation.

$$E_A = (E_h)(H)$$

where:

E_A = total organic mass emission rate, kg/y

E_h = total organic mass flow rate for the process vent, kg/h

H = total annual hours of operations for the affected unit, h

C.1.f. - D.1.b. ...

c. Each sample shall be analyzed, and the total organic concentration of the sample shall be computed using Method 9060A (incorporated by reference in LAC 33:V.110) of *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, or each sample shall be analyzed for its individual organic constituents.

D.1.d. - E.3. ...

F. When an owner or operator and the administrative authority do not agree on whether a distillation, fractionation, thin-film evaporation, solvent extraction, or air or steam stripping operation manages a hazardous waste with organic concentrations of at least 10 ppmw based on knowledge of the waste, the dispute may be resolved by using direct measurement as specified in Paragraph D.1 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 Solid and Hazardous Waste, Hazardous Waste Division, LR 17:658 (July 1991), amended LR 20:1000 (September 1994), LR 22:818 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1699 (September 1998), amended by the Office of the Secretary, Legal Affairs Division, LR 34:

Subchapter B. Equipment Leaks

§1741. Test Methods and Procedures

A. - D.1....

2. Method 9060A (incorporated by reference in LAC 33:V.110) of *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, for

computing total organic concentration of the sample or analyzing for its individual organic constituents; or

D.3. - I. ...

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 17:658 (July 1991), amended LR 20:1000 (September 1994), LR 22:819 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1701 (September 1998), amended by the Office of the Secretary, Legal Affairs Division, LR 34:

Chapter 19. Tanks

§1901. Applicability

The requirements of this Chapter apply to owners and operators of facilities that use tank systems for storing or treating hazardous waste except as otherwise provided in Subsections A and B of this Section or LAC 33:V.1501.

A. Tank systems that are used to store or treat hazardous waste that contains no free liquids and are situated inside a building with an impermeable floor are exempted from the requirements of LAC 33:V.1907. To demonstrate the absence or presence of free liquids in the stored/treated waste, the following test method must be used: EPA Method 9095B (Paint Filter Liquids Test) as described in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, as incorporated by reference in LAC 33:V.110.

B. - C. ...

D. Tanks meeting the requirements for the accumulation time exclusion of LAC 33:V.305.C and 1109.E.1 are subject to the requirements of LAC 33:V.1903.A, 1905.B-H, 1907.A, 1907.B-I, 1909, 1911, 1913, 1915.D, 1917, and 1919.

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 13:651 (November 1987), LR 16:614 (July 1990), LR 18:1375 (December 1992), LR 22:819 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1107 (June 1998), amended by the Office of the Secretary, Legal Affairs Division, LR 34:

Chapter 22. Prohibitions on Land Disposal

Subchapter A. Land Disposal Restrictions

§2223. Applicability of Treatment Standards

A. - A.3....

B. For wastewaters, compliance with concentration level standards is based on maximums for any one day, except for D004-D011 wastes for which the previously promulgated treatment standards based on grab samples remain in effect. For all nonwastewaters, compliance with concentration level standards is based on grab sampling. For wastes covered by the waste extract standards, the Test Method 1311, the Toxicity Characteristic Leaching Procedure as described in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, as incorporated by reference in LAC 33:V.110, must be used to measure compliance. An exception is made for D004 and D008, for which either of two test methods may be used: Method 1311 or Method 1310B, the Extraction Procedure Toxicity Test. For wastes covered by a technology standard, the wastes may be land disposed after being treated using that specified

technology or an equivalent treatment technology approved by the administrative authority under the procedures set forth in LAC 33:V.2227.

C. - I. ...

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), LR 24:1726 (September 1998), LR 25:444 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:280 (February 2000), LR 30:1682 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 34:

§2299. Appendix—Tables 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12

Table 2. - Table 2.Footnote 6. ...

⁷ Both Cyanides (Total) and Cyanides (Amenable) for nonwastewaters are to be analyzed using Method 9010C or 9012B, found in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, as incorporated by reference in LAC 33:V.110, with a sample size of 10 grams and a distillation time of one hour and 15 minutes.

Table 2.Footnote 8. - Table 7.Footnote 3. ...

⁴ Both Cyanides (Total) and Cyanides (Amenable) for nonwastewaters are to be analyzed using Method 9010C or 9012B, found in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, as incorporated by reference in LAC 33:V.110, with a sample size of 10 grams and a distillation time of one hour and 15 minutes.

Table 7.Footnote 5. - Table 10. ...

¹ A facility may certify compliance with these treatment standards according to provisions in LAC 33:V.2245 and 2247.

² Cyanide Wastewater Standards for F006 are based on analysis of composite samples.

³ These facilities must comply with 0.86 mg/L for amenable cyanides in the wastewater exiting the alkaline chlorination system. These facilities must also comply with LAC 33:V.2245.D for appropriate monitoring frequency consistent with the facilities' waste analysis plan.

⁴ Cyanide nonwastewaters are analyzed using SW-846 Method 9010C or 9012B, sample size 10 grams, distillation time, 1 hour and 15 minutes.

[NOTE: NA means Not Applicable.]

Table 11. - Table 12. ...

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), LR 22:834 (September 1996), LR 23:566 (May 1997), LR 24:301 (February 1998), LR 24:670 (April 1998), LR 24:1732 (September 1998), LR 25:451 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:282 (February 2000), LR 27:295 (March 2001), LR 29:322 (March 2003), LR 30:1682 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 32:828 (May 2006), LR 32:1843 (October 2006), LR 34:625 (April 2008), LR 34:

Chapter 26. Corrective Action Management Units and Special Provisions for Cleanup

§2603. Corrective Action Management Units (CAMUs)

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

c. The placement of any liquid that is not a hazardous waste in a CAMU is prohibited unless such

placement facilitates the remedy selected for the waste or a demonstration is made in accordance with LAC 33:V.2515.D.

d. The absence or presence of free liquids in either a containerized or a bulk waste must be determined in accordance with LAC 33:V.2515.B. Sorbents used to treat free liquids in CAMUs must meet the requirements of LAC 33:V.2515.D.

A.4. - E.4.d.v. ...

vi. Alternatives to TCLP. For metal-bearing wastes for which metals removal treatment is not used, the administrative authority may specify a leaching test other than the TCLP (Method 1311, EPA Publication SW-846, as incorporated by reference in LAC 33:V.110) to measure treatment effectiveness, provided the administrative authority determines that an alternative leach testing protocol is appropriate for use and that the alternative more accurately reflects conditions at the site that affect leaching.

E.4.e. - K. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:1192 (June 2002), amended LR 29:323 (March 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 34:627 (April 2008), LR 34:

Chapter 30. Hazardous Waste Burned in Boilers and Industrial Furnaces

§3001. Applicability

A. - D.1.a.iv. ...

b. sample and analyze the hazardous waste and other feedstocks as necessary to comply with the requirements of this Section by using appropriate methods; and

D.1.c. - G.1.a.iii. ...

b. sample and analyze the hazardous waste as necessary to document that the waste contains economically significant amounts of the metals and that the treatment recovers economically significant amounts of precious metal; and

G.1.c. - 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 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:821, 835 (September 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1466 (August 1999), LR 27:297 (March 2001), LR 27:712 (May 2001), LR 29:323 (March 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 32:607 (April 2006), LR 34:628 (April 2008), LR 34:

§3005. Permit Standards for Burners

A. - A.2.i. ...

B. Hazardous Waste Analysis

1. The owner or operator must provide an analysis of the hazardous waste that quantifies the concentration of any constituent identified in LAC 33:V.3105, Table 1, that may reasonably be expected to be in the waste. Such constituents must be identified and quantified, if present, at levels detectable by using appropriate analytical procedures. The LAC 33:V.3105, Table 1 constituents excluded from this analysis must be identified and the basis for their exclusion

explained. This analysis will be used to provide all information required by this Section and LAC 33:V.535 and 537 and to enable the permit writer to prescribe such permit conditions as are necessary to protect human health and the environment. Such analysis must be included as a portion of Part II of the permit application, or, for facilities operating under the interim status standards of LAC 33:V.3007, as a portion of the trial burn plan that may be submitted before Part II of the application under the provisions of LAC 33:V.537.D, as well as any other analysis required by the permit authority in preparing the permit. Owners and operators of boilers and industrial furnaces not operating under the interim status standards of LAC 33:V.3007 must provide the information required by LAC 33:V.535 and 537 to the greatest extent possible.

B.2. - G. ...

H. Recordkeeping. The owner or operator must maintain in the operating record of the facility all information and data required by this Section for five years.

I. ...

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 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:822 (September 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2483 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2463 (October 2005), LR 33:2113 (October 2007), LR 34:628 (April 2008), LR 34:

§3013. Standards to Control Metals Emissions

A. General. The owner or operator must comply with the metals standards provided by Subsections B-F of this Section for each metal listed in Subsection B of this Section that is present in hazardous waste at detectable levels by using appropriate analytical procedures.

B. - I. ...

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 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 22:824 (September 1996), repromulgated LR 22:980 (October 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1741 (September 1998), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1626 (August 2007), LR 34:

§3025. Regulation of Residues

A residue derived from the burning or processing of hazardous waste in a boiler or industrial furnace is not excluded from the definition of a hazardous waste under LAC 33:V.105.D.2.d, h, and i unless the device and the owner or operator meet the following requirements.

A. - B. ...

1. Comparison of Waste-Derived Residue with Normal Residue. The waste-derived residue must not contain LAC 33:V.4901.G, Table 6 constituents (toxic constituents) that could reasonably be attributable to the hazardous waste at concentrations significantly higher than in residue generated without burning or processing of hazardous waste, using the following procedure. Toxic compounds that could reasonably be attributable to burning or processing the hazardous waste (constituents of concern)

include toxic constituents in the hazardous waste, and the organic compounds listed in 40 CFR 266, Appendix VIII, as incorporated by reference in LAC 33:V.3099.Appendix H, that may be generated as products of incomplete combustion. For polychlorinated dibenzo-p-dioxins and polychlorinated dibenzo-furans, analyses must be performed to determine specific congeners and homologues, and the results converted to 2,3,7,8-TCDD equivalent values using the procedure specified in LAC 33:V.3099.Appendix I;

a. - b. ...

2. Comparison of Waste-Derived Residue Concentrations with Health-Based Limits

a. Nonmetal Constituents. The concentration of each nonmetal toxic constituent of concern (specified in Paragraph B.1 of this Section) in the waste-derived residue must not exceed the health-based level specified in 40 CFR 266, Appendix VII, as incorporated by reference and amended in LAC 33:V.3099.Appendix G, or the level of detection, whichever is higher. If a health-based limit for a constituent of concern is not listed in 40 CFR 266, Appendix VII, as incorporated by reference and amended in LAC 33:V.3099.Appendix G, then a limit of 0.002 micrograms per kilogram or the level of detection (which must be determined by using appropriate analytical procedures), whichever is higher, shall be used. The levels specified in 40 CFR 266, Appendix VII (and the default level of 0.002 micrograms per kilogram or the level of detection for constituents as identified in 40 CFR 266, Appendix VII.Note 1, as incorporated by reference and amended in LAC 33:V.3099.Appendix G) are administratively stayed under the condition, for those constituents specified in Paragraph B.1 of this Section, that the owner or operator complies with alternative levels defined as the land disposal restriction limits specified in LAC 33:V.2299.Appendix, Table 2 for F039 nonwastewaters. In complying with those alternative levels, if an owner or operator is unable to detect a constituent despite documenting use of best good-faith efforts, as defined by applicable agency guidance or standards, the owner or operator is deemed to be in compliance for that constituent. Until new guidance or standards are developed, the owner or operator may demonstrate such good-faith efforts by achieving a detection limit for the constituent that does not exceed an order of magnitude above the level provided by LAC 33:V.2299.Appendix, Table 2 for F039 nonwastewaters. In complying with the LAC 33:V.2299.Appendix, Table 2 for F039 nonwastewater levels for polychlorinated dibenzo-p-dioxins and polychlorinated dibenzo-furans, analyses must be performed for total hexachlorodibenzo-p-dioxins, total hexachlorodibenzofurans, total pentachlorodibenzo-p-dioxins, total pentachlorodibenzofurans, total tetrachlorodibenzo-p-dioxins, and total tetrachlorodibenzofurans;

[Note to Subparagraph B.2.a: The stay, under the condition that the owner or operator complies with alternative levels defined as the land disposal restriction limits specified in LAC 33:V.2299.Appendix, Table 2 for F039 nonwastewaters, remains in effect until further administrative action is taken and notice is published in the *Federal Register* or the *Louisiana Register*.]

B.2.b. - C.2.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 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 22:826 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1107 (June 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:300 (March 2001), repromulgated LR 27:513 (April 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 34:

Chapter 31. Incinerators

§3115. Incinerator Permits for New or Modified Facilities

A. - B.1.b. ...

c. an identification of any hazardous, organic constituents listed in LAC 33:V.3105, Table 1, which are present in the waste to be burned, except that the applicant need not analyze for constituents listed in LAC 33:V.3105, Table 1 that would reasonably not be expected to be found in the waste. The constituents excluded from analysis must be identified, and the basis for their exclusion stated. The waste analysis must rely on appropriate analytical techniques;

d. an approximate quantification of the hazardous constituents identified in the waste, within the precision produced by appropriate analytical methods;

B.2. - E. ...

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, 835 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:683 (April 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2484 (November 2000), LR 27:302 (March 2001), LR 29:324 (March 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2464 (October 2005), LR 33:2115 (October 2007), LR 34:630 (April 2008), LR 34:

Chapter 33. Groundwater Protection

§3325. Groundwater Monitoring List

Table 4 lists groundwater monitoring constituents.

Table 4. Groundwater Monitoring List		
Common Name ¹	CAS RN ²	Chemical Abstracts Service Index Name ³
* * *		
[See prior text in Acenaphthene - Aniline]		
Anthracene	120-12-7	Anthracene
* * *		
[See prior text in Antimony - Endosulfan I]		
Endosulfan II	33213-65-9	6,9-Methano-2,4,3- benzodioxathiepin, 6,7,8,9,10,10-hexa-chloro- 1,5,5a,6,9, 9a-hexahydro-, 3-oxide, (3 α ,5 α ,6 β ,9 α ,9 α)-
* * *		
[See prior text in Endosulfan sulfate - Parathion]		
Polychlorinated biphenyls; PCBs	See Note 4	1,1'-Biphenyl, chloro derivatives
Polychlorinated dibenzo-p- dioxins; PCDDs	See Note 5	Dibenzo[b,e][1,4]dioxin, chloro derivatives
Polychlorinated dibenzofurans; PCDFs	See Note 6	Dibenzofuran, chloro derivatives
* * *		
[See prior text in Pentachlorobenzene - Zinc]		

¹ Common names are those widely used in government regulations, scientific publications, and commerce; synonyms exist for many chemicals.

² Chemical Abstracts Service registry number. Where "Total" is entered, all species in the ground water that contain this element are included.

³ CAS index names are those used in the ninth Cumulative Index.

⁴ Polychlorinated biphenyls (CAS RN 1336-36-3); this category contains congener chemicals, including constituents of Aroclor-1016 (CAS RN 12674-11-2), Aroclor-1221 (CAS RN 11104-28-2), Aroclor-1232 (CAS RN 11141-16-5), Aroclor-1242 (CAS RN 53469-21-9), Aroclor-1248 (CAS RN 12672-29-6), Aroclor-1254 (CAS RN 11097-69-1), and Aroclor-1260 (CAS RN 11096-82-5).

⁵ This category contains congener chemicals, including tetrachlorodibenzo-p-dioxins (see also 2,3,7,8-TCDD), pentachlorodibenzo-p-dioxins, and hexachlorodibenzo-p-dioxins.

⁶ This category contains congener chemicals, including tetrachlorodibenzofurans, pentachlorodibenzofurans, and hexachlorodibenzofurans.

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 16:399 (May 1990), amended LR 18:1256 (November 1992), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1742 (September 1998), amended by the Office of the Secretary, Legal Affairs Division, LR 32:1848 (October 2006), LR 34:

Chapter 38. Universal Wastes

Subchapter A. General

§3807. Applicability—Mercury-Containing Equipment

A. - B. ...

1. mercury-containing equipment that is not yet waste under LAC 33:V.Chapter 49 (Subsection C of this Section describes when mercury-containing equipment becomes waste.);

2. mercury-containing equipment that is not hazardous waste. Mercury-containing equipment is a hazardous waste if it exhibits one or more of the characteristics identified in LAC 33:V.4903; and

3. equipment and devices from which the mercury-containing components have been removed.

C. - C.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 23:569 (May 1997), amended by the Office of the Secretary, Legal Affairs Division, LR 31:3117 (December 2005), LR 34:

Subchapter B. Standards for Small Quantity Handlers of Universal Waste

§3823. Labeling/Marking

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

4. Universal waste mercury-containing equipment (i.e., each device), or a container in which the mercury-containing equipment is contained, shall be labeled or marked clearly with any of the following phrases: "Universal Waste—Mercury-Containing Equipment," or "Waste Mercury-Containing Equipment," or "Used Mercury-Containing Equipment."

5. - 8. ...

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 23:572 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1761 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:303 (March 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:3119 (December 2005), LR 34:

Subchapter C. Standards for Large Quantity Handlers of Universal Waste

§3845. Labeling/Marking

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

4. Universal waste mercury-containing equipment (i.e., each device), or a container in which the mercury-containing equipment is contained, shall be labeled or marked clearly with one of the following phrases: "Universal Waste—Mercury-Containing Equipment," or "Waste Mercury-Containing Equipment," or "Used Mercury-Containing Equipment."

5. - 8. ...

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 23:575 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1761 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:303 (March 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:3121 (December 2005), LR 34:

Chapter 40. Used Oil

Subchapter A. Materials Regulated as Used Oil

§4003. Applicability

This Section identifies those materials that are subject to regulation as used oil under this Chapter. This Section also identifies some materials that are not subject to regulation as used oil under this Chapter and indicates whether these materials may be subject to regulation as hazardous waste under this Subpart.

A. - B.1.a. ...

b. Rebuttable Presumption for Used Oil. Used oil containing more than 1,000 ppm total halogens is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in LAC 33:V.4901. Persons may rebut this presumption by demonstrating that the used oil does not contain hazardous waste (e.g., by showing that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in LAC 33:V.3105, Table 1).

B.1.b.i. - I. ...

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 21:266 (March 1995), amended LR 22:828, 836 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1108 (June 1998), LR 25:481 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:713 (May 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2540 (October 2005), LR 34:631 (April 2008), LR 34:

Subchapter D. Standards for Used Oil Transporter and Transfer Facilities

§4033. Rebuttable Presumption for Used Oil

A. - B.2. ...

C. If the used oil contains greater than or equal to 1,000 ppm total halogens, it is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste, which is listed in LAC 33:V.4901. The owner or operator may rebut the presumption by demonstrating that the used oil does not contain hazardous waste (e.g., by showing that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in LAC 33:V.3105, Table 1).

C.1. - 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 21:266 (March 1995), amended LR 22:828 (September 1996), amended by the Office of the Secretary, Legal Affairs Division, LR 34:

Subchapter E. Standards for Used Oil Processors and Re-Refiners

§4047. Rebuttable Presumption for Used Oil

A. - B.2. ...

C. If the used oil contains greater than or equal to 1,000 ppm total halogens, it is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste, which is listed in LAC 33:V.4901. The owner or operator may rebut the presumption by demonstrating that the used oil does not contain hazardous waste (e.g., by showing that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in LAC 33:V.3105, Table 1).

I. - 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 21:266 (March 1995), amended LR 22:828 (September 1996), amended by the Office of the Secretary, Legal Affairs Division, LR 34:

Subchapter F. Standards for Used Oil Burners That Burn Off-Specification Used Oil for Energy Recovery

§4067. Rebuttable Presumption for Used Oil

A. - B.3. ...

C. If the used oil contains greater than or equal to 1,000 ppm total halogens, it is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste, which is listed in LAC 33:V.4901. The owner or

operator may rebut the presumption by demonstrating that the used oil does not contain hazardous waste (e.g., by showing that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in LAC 33:V.3105, Table 1).

C.1. - 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 21:266 (March 1995), amended LR 22:828 (September 1996), amended by the Office of the Secretary, Legal Affairs Division, LR 34:632 (April 2008), LR 34:

Chapter 43. Interim Status

Subchapter D. Manifest System, Recordkeeping, and Reporting

§4357. Operating Record

A. ...

B. Records of each hazardous waste received, treated, stored, or disposed of at the facility must be recorded, as they become available, and maintained in the operating record for three years, unless otherwise specified in Paragraphs B.1-17 of this Section. These records shall include the following information:

1. a description and the quantity of each hazardous waste received, and the method(s) and date(s) of its treatment, storage, or disposal at the facility as required by LAC 33:V.4999.Appendix F. This information must be maintained in the operating record until closure of the facility;

2. the location of each hazardous waste within the facility and the quantity at each location. For disposal facilities, the location and quantity of each hazardous waste must be recorded on a map or diagram of each cell or disposal area. For all facilities, this information must include cross-references to manifest document numbers, if the waste was accompanied by a manifest. This information must be maintained in the operating record until closure of the facility;

3. - 5. ...

6. summary reports and details of all incidents that require implementing the contingency plan as specified in LAC 33:V.1513.F.9;

7. ...

8. monitoring, testing, or analytical data, and corrective action where required by LAC 33:V.4320, 4367, 4375, 4433, 4437, 4440, 4449, 4451, 4455, 4470, 4472, 4474, 4483, 4485, 4489.D.1, 4497, 4498, 4499, 4501, 4502, 4519, 4529, 4557, 4559, 4587, 4589, 4725, 4727, 4729, 4731, 4733, 4735, 4737, and 4739. Maintain this information in the operating record for three years, except for records and results pertaining to groundwater monitoring and cleanup, and response action plans for surface impoundments, waste piles, and landfills, which must be maintained in the operating record until closure of the facility;

[Comment: As required by LAC 33:V.4375, monitoring data at disposal facilities must be kept throughout the post-closure period.]

9. all closure cost estimates under LAC 33:V.4401 and, for disposal facilities, all post-closure cost estimates under LAC 33:V.4405. This information must be maintained in the operating record until closure of the facility;

10. records of the quantities (and date of placement) for each shipment of hazardous waste placed in land disposal units under an extension to the effective date of any land disposal prohibition granted in accordance with LAC 33:V.2239, monitoring data required in accordance with an exemption under LAC 33:V.2241 or 2271 or a certification under LAC 33:V.2235, and the applicable notice required of a generator under LAC 33:V.2245. All of this information must be maintained in the operating record until closure of the facility;

11. - 15. ...

16. for an on-site storage facility, the information contained in the notice (except the manifest number) and the certification and demonstration, if applicable, required by the generator or the owner or operator of a treatment facility under LAC 33:V.2245 or 2247;

17. monitoring, testing, or analytical data and corrective action data where required by LAC 33:V.4367, 4373.F, and 4373.I, and the certification as required by LAC 33:V.4441.F. This information must be maintained in the operating record until closure of the facility.

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 15:378 (May 1989), LR 16:220 (March 1990), LR 17:658 (July 1991), LR 18:723 (July 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 22:837 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1744 (September 1998), LR 25:484 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1803 (October 1999), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1626 (August 2007), LR 34:633 (April 2008), LR 34:

Subchapter I. Tanks

§4431. Applicability

A. ...

1. Tank systems that are used to store or treat hazardous waste that contains no free liquids and that are situated inside a building with an impermeable floor are exempted from the requirements of LAC 33:V.4437. To demonstrate the absence or presence of free liquids in the stored/treated waste, the following test must be used: Method 9095B (Paint Filter Liquids Test) as described in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, as incorporated by reference in LAC 33:V.110.

2. - 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 13:651 (November 1987), LR 16:614 (July 1990), LR 18:1375 (December 1992), LR 22:829 (September 1996), amended by the Office of the Secretary, Legal Affairs Division, LR 34:

Subchapter V. Air Emission Standards for Tanks, Surface Impoundments, and Containers

§4727. Waste Determination Procedures

A. - A.3.b.ii. ...

iii. All samples shall be collected and handled in accordance with written procedures prepared by the owner or operator and documented in a site sampling plan. This

plan shall describe the procedure by which representative samples of the hazardous waste stream are collected such that a minimum loss of organics occurs throughout the sample collection and handling process and by which sample integrity is maintained. A copy of the written sampling plan shall be maintained on-site in the facility operating records. An example of acceptable sample collection and handling procedures for a total volatile organic constituent concentration may be found in Method 25D in 40 CFR Part 60, Appendix A.

iv. ...

c. Analysis. Each collected sample shall be prepared and analyzed in accordance with Method 25D in 40 CFR Part 60, Appendix A for the total concentration of volatile organic constituents, or by using one or more appropriate methods when the individual organic compound concentrations are identified and summed and the summed waste concentration accounts for and reflects all organic compounds in the waste with Henry's law constant values at least 0.1 mole-fraction-in-the-gas-phase/mole-fraction-in-the-liquid-phase (0.1 Y/X) (which can also be expressed as 1.8×10^{-6} atmospheres/gram-mole/m³) at 25°C. At the owner's or operator's discretion, the owner or operator may adjust test data obtained by any appropriate method to discount any contribution to the total volatile organic concentration that is a result of including a compound with a Henry's law constant value of less than 0.1 Y/X at 25°C. To adjust these data, the measured concentration of each individual chemical constituent contained in the waste is multiplied by the appropriate constituent-specific adjustment factor (f_{m25D}). If the owner or operator elects to adjust test data, the adjustment must be made to all individual chemical constituents with a Henry's law constant value greater than or equal to 0.1 Y/X at 25°C that are contained in the waste. Constituent-specific adjustment factors (f_{m25D}) can be obtained by contacting the Waste and Chemical Processes Group, Office of Air Quality Planning and Standards, Research Triangle Park, NC 27711. Other test methods may be used if they meet one of the following requirements in Clause A.3.c.i or ii of this Section and provided that the requirement to reflect all organic compounds in the waste with Henry's law constant values greater than or equal to 0.1 Y/X (which can also be expressed as 1.8×10^{-6} atmospheres/gram-mole/m³) at 25°C is met:

i. any EPA standard method that has been validated in accordance with *Alternative Validation Procedure for EPA Waste and Wastewater Methods*, 40 CFR Part 63, Appendix D; or

ii. any other analysis method that has been validated in accordance with the procedures specified in Section 5.1 or Section 5.3, and the corresponding calculations in Section 6.1 or Section 6.3, of Method 301 in 40 CFR Part 63, Appendix A. The data are acceptable if they meet the criteria specified in Section 6.1.5 or Section 6.3.3 of Method 301. If correction is required under Section 6.3.3 of Method 301, the data are acceptable if the correction factor is within the range 0.7 to 1.30. Other sections of Method 301 are not required.

A.3.d. - B.3.b.ii. ...

iii. All samples shall be collected and handled in accordance with written procedures prepared by the owner or operator and documented in a site sampling plan. This

plan shall describe the procedure by which representative samples of the hazardous waste stream are collected such that a minimum loss of organics occurs throughout the sample collection and handling process and by which sample integrity is maintained. A copy of the written sampling plan shall be maintained on-site in the facility operating records. An example of acceptable sample collection and handling procedures for a total volatile organic constituent concentration may be found in Method 25D in 40 CFR Part 60, Appendix A.

iv. ...

c. Analysis. Each collected sample shall be prepared and analyzed in accordance with Method 25D in 40 CFR Part 60, Appendix A for the total concentration of volatile organic constituents, or by using one or more appropriate methods when the individual organic compound concentrations are identified and summed and the summed waste concentration accounts for and reflects all organic compounds in the waste with Henry's law constant values at least 0.1 mole-fraction-in-the-gas-phase/mole-fraction-in-the-liquid-phase (0.1 Y/X) (which can also be expressed as 1.8×10^{-6} atmospheres/gram-mole/m³) at 25°C. When the owner or operator is making a waste determination for a treated hazardous waste that is to be compared to an average VO concentration at the point of waste origination or the point of waste entry to the treatment system, to determine if the conditions of LAC 33:V.4723 or 4725 are met, then the waste samples shall be prepared and analyzed using the same method or methods as were used in making the initial waste determinations at the point of waste origination or at the point of entry to the treatment system. At the owner's or operator's discretion, the owner or operator may adjust test data obtained by any appropriate method to discount any contribution to the total VO concentration that is a result of including a compound with a Henry's law constant value less than 0.1 Y/X at 25°C. To adjust these data, the measured concentration of each individual chemical constituent contained in the waste is multiplied by the appropriate constituent-specific adjustment factor (f_{m25D}). If the owner or operator elects to adjust test data, the adjustment must be made to all individual chemical constituents with a Henry's law constant value greater than or equal to 0.1 Y/X at 25°C that are contained in the waste. Constituent-specific adjustment factors (f_{m25D}) can be obtained by contacting the Waste and Chemical Processes Group, Office of Air Quality Planning and Standards, Research Triangle Park, NC 27711. Other test methods may be used if they meet one of the following requirements in Clause B.3.c.i or ii of this Section and provided that the requirement to reflect all organic compounds in the waste with Henry's law constant values greater than or equal to 0.1 Y/X (which can also be expressed as 1.8×10^{-6} atmospheres/gram-mole/m³) at 25°C is met:

i. any EPA standard method that has been validated in accordance with *Alternative Validation Procedure for EPA Waste and Wastewater Methods*, 40 CFR Part 63, Appendix D; or

ii. any other analysis method that has been validated in accordance with the procedures specified in Section 5.1 or Section 5.3, and the corresponding calculations in Section 6.1 or Section 6.3, of Method 301 in 40 CFR Part 63, Appendix A. The data are acceptable if they

meet the criteria specified in Section 6.1.5 or Section 6.3.3 of Method 301. If correction is required under Section 6.3.3 of Method 301, the data are acceptable if the correction factor is within the range 0.7 to 1.30. Other sections of Method 301 are not required.

B.3.d. - C.2. ...

3. Direct Measurement to Determine the Maximum Organic Vapor Pressure of a Hazardous Waste

a. Sampling. A sufficient number of samples shall be collected to be representative of the waste contained in the tank. All samples shall be collected and handled in accordance with written procedures prepared by the owner or operator and documented in a site sampling plan. This plan shall describe the procedure by which representative samples of the hazardous waste are collected such that a minimum loss of organics occurs throughout the sample collection and handling process and by which sample integrity is maintained. A copy of the written sampling plan shall be maintained on-site in the facility operating records. An example of acceptable sample collection and handling procedures may be found in Method 25D in 40 CFR Part 60, Appendix A.

C.3.b. - D.9. ...

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 24:1747 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:288 (February 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 34:

Chapter 49. Lists of Hazardous Wastes

[Comment: Chapter 49 is divided into two sections: Category I Hazardous Wastes, which consist of Hazardous Wastes from nonspecific and specific sources (F and K wastes), Acute Hazardous Wastes (P wastes), and Toxic Wastes (U wastes) (LAC 33:V.4901); and Category II Hazardous Wastes, which consist of wastes that are ignitable, corrosive, reactive, or toxic (LAC 33:V.4903).]

§4901. Category I Hazardous Wastes

A. - B.3.b.ii.(b).(ii). ...

(c). Analytical Requirements

(i). Rinses must be tested by using an appropriate method.

(ii). *Not detected* means at or below the lower method calibration limit (MCL). The 2,3,7,8-TCDD-based MCL is 0.01 parts per trillion (ppt), sample weight of 1000g, IS spiking level of 1 ppt, final extraction volume of 10-50 μ L. For other congeners, multiply the values by 1 for TCDF/PeCDD/PeCDF, by 2.5 for HxCDD/HxCDF/HpCDD/HpCDF, and by 5 for OCDD/OCDF.

B.3.b.ii.(d). - G.Table 6. ...

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 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 14:426 (July 1988), LR 14:791 (November 1988), LR 15:182 (March 1989), 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, 840 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:1522 (November 1997), LR 24:321 (February 1998), LR 24:686 (April 1998), LR 24:1754 (September 1998), LR 25:487 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:304 (March 2001), LR 27:715 (May 2001), LR 28:1009 (May 2002), LR 29:324 (March 2003), amended by the Office of Environmental Assessment, LR 31:1573 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:831 (May 2006), LR 33:1627 (August 2007), LR 34:635 (April 2008), LR 34:

§4903. Category II Hazardous Wastes

A. - B. ...

1. It is a liquid, other than an aqueous solution containing less than 24 percent alcohol by volume, and has a flash point less than 60°C (140°F), as determined by a Pensky-Martens Closed Cup Tester, using the test method specified in ASTM Standard D-93-79 or D-93-80, as incorporated by reference in LAC 33:V.110, or by a Setaflash Closed Cup Tester, using the test method specified in ASTM Standard D 3278-78, as incorporated by reference in LAC 33:V.110.

B.2. - C. ...

1. It is aqueous and has a pH less than or equal to 2 or greater than or equal to 12.5, as determined by a pH meter using Method 9040C in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, as incorporated by reference in LAC 33:V.110.

2. It is a liquid and corrodes steel (SAE 1020) at a rate greater than 6.35 mm (0.250 inch) per year at a test temperature of 55°C (130°F) as determined by Method 1110A in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, and as incorporated by reference in LAC 33:V.110.

D. - 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 16:1057 (December 1990), LR 17:369 (April 1991), LR 18:723 (July 1992), LR 18:1256 (November 1992), LR 22:829 (September 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:325 (March 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 34:644 (April 2008), LR 34:

§4909. Comparable/Syngas Fuel Exclusion

A. - D.6....

7. Waste Analysis Plans. The generator of a comparable/syngas fuel shall develop and follow a written waste analysis plan that describes the procedures for sampling and analysis of the hazardous waste to be excluded. The plan shall be followed and retained at the facility excluding the waste.

7.a. - 13. ...

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 25:489 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:305 (March 2001), LR 28:1010 (May 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 34:644 (April 2008), LR 34:

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

Appendix A. Reserved

Appendix B. Reserved

Appendix C. Extraction Procedure (EP) Toxicity Test Method and Structural Integrity Test (Method 1310B)

[Note: The EP (Method 1310B) is published in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, as incorporated by reference in LAC 33:V.110.]

Appendix D. Representative Sampling Methods

The methods and equipment used for sampling waste materials will vary with the form and consistency of the waste materials to be sampled. Samples collected using the sampling protocols listed below, for sampling waste with properties similar to the indicated materials, will be considered by the department to be representative of the waste.

Containerized Liquid Wastes—"COLIWASA."

* * *

Liquid Waste in Pits, Ponds, Lagoons, and Similar Reservoirs—"Pond Sampler."

NOTE: These protocols are described in *Samplers and Sampling Procedures for Hazardous Waste Streams*, EPA 600/2-80-018, January 1980.

Appendix E. - Appendix E. Table 1. ...

Appendix F—Recordkeeping Instructions

A. The recordkeeping provisions of LAC 33:V.4357 specify that an owner or operator must keep a written operating record at his facility. This appendix provides additional instructions for keeping portions of the operating record. See LAC 33:V.4357.B for additional recordkeeping requirements.

B. The following information concerning each hazardous waste received, treated, stored, or disposed of at the facility must be recorded, as it becomes available, and maintained in the operating record until closure of the facility, in the following manner:

1. a description of the waste, identified by its common name and the EPA hazardous waste number(s) from LAC 33:V.Chapter 49 that apply to the waste. The waste description must include the waste's physical form, i.e., liquid, sludge, solid, or contained gas. If the waste is not listed in LAC 33:V.Chapter 49, the description also must include the process that produced it (for example, "solid filter cake from production of [___], EPA Hazardous Waste Number W051"). Each hazardous waste listed in LAC 33:V.4901, and each hazardous waste characteristic defined in LAC 33:V.4903, has a four-digit EPA hazardous waste number assigned to it. This number must be used for recordkeeping and reporting purposes. Where a hazardous waste contains more than one listed hazardous waste, or where more than one hazardous waste characteristic applies to the waste, the waste description must include all applicable EPA hazardous waste numbers;

2. the estimated or manifest-reported weight, or volume and density, where applicable, in one of the units of measure specified in Table 1:

Table 1—Units of Measure	
Unit of Measure	Code ¹
Gallons	G
Gallons per Hour	E
Gallons per Day	U

Table 1—Units of Measure	
Unit of Measure	Code ¹
Liters	L
Liters Per Hour	H
Liters Per Day	V
Short Tons Per Hour	D
Metric Tons Per Hour	W
Short Tons Per Day	N
Metric Tons Per Day	S
Pounds Per Hour	J
Kilograms Per Hour	R
Cubic Yards	Y
Cubic Meters	C
Acres	B
Acre-feet	A
Hectares	Q
Hectare-meter	F
Btu's per Hour	I
Pounds	P
Short tons	T
Kilograms	K
Tons	M

¹Single digit symbols are used here for data processing purposes.

3. the method(s) (by handling code(s) as specified in Table 2) and date(s) of treatment, storage, or disposal. Use the handling code(s) listed in Table 2 that most closely represents the technique(s) used at the facility to treat, store, or dispose of each quantity of hazardous waste received.

Table 2—Handling Codes for Treatment, Storage, and Disposal Methods	
Handling Code	Technique
A. Storage	
S01	Container (barrel, drum, etc.)
S02	Tank
S03	Waste Pile
S04	Surface Impoundment
S05	Drip Pad
S06	Containment Building (Storage)
S99	Other Storage (specify)
B. Treatment	
1. Thermal Treatment	
T06	Liquid injection incinerator
T07	Rotary kiln incinerator
T08	Fluidized bed incinerator
T09	Multiple hearth incinerator
T10	Infrared furnace incinerator
T11	Molten salt destructor
T12	Pyrolysis
T13	Wet air oxidation
T14	Calcination
T15	Microwave discharge
T18	Other (specify)
2. Chemical Treatment	
T19	Absorption mound
T20	Absorption field
T21	Chemical fixation
T22	Chemical oxidation
T23	Chemical precipitation
T24	Chemical reduction
T25	Chlorination
T26	Chlorinolysis
T27	Cyanide destruction
T28	Degradation
T29	Detoxification
T30	Ion exchange
T31	Neutralization
T32	Ozonation
T33	Photolysis
T34	Other (specify)

Table 2—Handling Codes for Treatment, Storage, and Disposal Methods	
Handling Code	Technique
3. Physical Treatment	
a. Separation of Components	
T35	Centrifugation
T36	Clarification
T37	Coagulation
T38	Decanting
T39	Encapsulation
T40	Filtration
T41	Flocculation
T42	Flotation
T43	Foaming
T44	Sedimentation
T45	Thickening
T46	Ultrafiltration
T47	Other (specify)
b. Removal of Specific Components	
T48	Absorption-molecular sieve
T49	Activated carbon
T50	Blending
T51	Catalysis
T52	Crystallization
T53	Dialysis
T54	Distillation
T55	Electrodialysis
T56	Electrolysis
T57	Evaporation
T58	High gradient magnetic separation
T59	Leaching
T60	Liquid ion exchange
T61	Liquid-liquid extraction
T62	Reverse osmosis
T63	Solvent recovery
T64	Stripping
T65	Sand filter
T66	Other (specify)
4. Biological Treatment	
T67	Activated sludge
T68	Aerobic lagoon
T69	Aerobic tank
T70	Anaerobic tank
T71	Composting
T72	Septic tank
T73	Spray irrigation
T74	Thickening filter
T75	Trickling filter
T76	Waste stabilization pond
T77	Other (specify)
T78-T79	[Reserved]
5. Boilers and Industrial Furnaces	
T80	Boiler
T81	Cement Kiln
T82	Lime Kiln
T83	Aggregate Kiln
T84	Phosphate Kiln
T85	Coke Oven
T86	Blast Furnace
T87	Smelting, Melting, or Refining Furnace
T88	Titanium Dioxide Chloride Process Oxidation Reactor
T89	Methane Reforming Furnace
T90	Pulping Liquor Recovery Furnace
T91	Combustion Device Used in the Recovery of Sulfur Values From Spent Sulfuric Acid
T92	Halogen Acid Furnace

Table 2—Handling Codes for Treatment, Storage, and Disposal Methods	
Handling Code	Technique
T93	Other Industrial Furnaces Listed in 40 CFR 260.10 (specify)
6. Other Treatment	
T94	Containment Building (Treatment)
C. Disposal	
D79	Underground Injection
D80	Landfill
D81	Land Treatment
D82	Ocean Disposal
D83	Surface Impoundment (to be closed as a landfill)
D99	Other Disposal (specify)
D. Miscellaneous	
X01	Open Burning/Open Detonation
X02	Mechanical Processing
X03	Thermal Unit
X04	Geologic Repository
X99	Other (specify)

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, LR 20:1000 (September 1994), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:944 (September 1995), LR 22:830 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:952 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2397 (December 1999), LR 26:2509 (November 2000), LR 29:1084 (July 2000), repromulgated LR 29:1475 (August 2003), amended by the Office of Environmental Assessment, LR 30:2464 (November 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 33:445 (March 2007), LR 33:825 (May 2007), LR 33:1016 (June 2007), LR 34:73 (January 2008), LR 34:

Part VII. Solid Waste

Subpart 1. Solid Waste Regulations

Chapter 1. General Provisions and Definitions

§115. Definitions

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

* * *

Liquid Waste—any waste material that is determined to contain free liquids as defined by Method 9095B (Paint Filter Liquids Test), as described in *Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods* (EPA Pub. SW-846), which is incorporated by reference. A suffix of “B” in the method number indicates revision two (the method has been revised twice). Method 9095B is dated November 2004.

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 22:279 (April 1996), amended by the Office of Waste Services, Solid Waste Division, LR 23:1145 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2514, 2609 (November 2000), amended by the Office of Environmental Assessment, LR 31:1576 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1019 (June 2007), LR 34:

Chapter 30. Appendices
§3005. Groundwater Sampling and Analysis
Plan—Appendix C
Groundwater Sampling and Analysis Plan

A. - G. ...

Table 1	
Detection Monitoring Parameters	
Common Name ¹	CAS RN ²
Organic Constituents	

[See prior text in (16) - (62)]	

NOTES:

¹ Common names are those widely used in government regulations, scientific publications, and commerce; synonyms exist for many chemicals.

² Chemical Abstracts Service registry number. Where "Total" is entered, all species in the groundwater that contain this element are included.

Table 1	
Detection Monitoring Parameters	
Common Name ¹	CAS RN ²
Inorganic Constituents	

[See prior text in (1) - (15)]	

Table 2		
Assessment Monitoring Parameters		
Common Name ¹	CAS RN ²	Chemical Abstracts Service Index Name ³
Acenaphthene	83-32-9	Acenaphthylene, 1,2-dihydro-
Acenaphthylene	208-96-8	Acenaphthylene
Acetone	67-64-1	2-Propanone
Acetonitrile; Methyl cyanide	75-05-8	Acetonitrile
Acetophenone	98-86-2	Ethanone, 1-phenyl-
2-Acetylaminofluorene; 2-AAF	53-96-3	Acetamide, N-9H-fluoren-2-yl-
Acrolein	107-02-8	2-Propenal
Acrylonitrile	107-13-1	2-Propenenitrile
Aldrin	309-00-2	1,4:5,8-Dimethanonaphthalene; 1,2,3,4,10,10-hexachloro-1,4,4a,5,8,8a,- hexa-hydro-(1 α ,4 α ,4a β , 5 α ,8 α ,8a β)
Allyl chloride	107-05-1	1-Propene, 3-chloro-
4-Amino-biphenyl	92-67-1	[1,1'-Biphenyl]-4-amine
Anthracene	120-12-7	Anthracene
Antimony	(Total)	Antimony
Arsenic	(Total)	Arsenic
Barium	(Total)	Barium
Benzene	71-43-2	Benzene
Benzo[a]anthracene; 1,2-Benzanthracene	56-55-3	Benz[a]anthracene
Benzo[b]fluoranthene	205-99-2	Benz[e]acephenanthrylene
Benzo[k]fluoranthene	207-08-9	Benzo[k]fluoranthene
Benzo[ghi]perylene	191-24-2	Benzo[ghi]perylene
Benzo[a]pyrene	50-32-8	Benzo[a]pyrene
Benzyl alcohol	100-51-6	Benzenemethanol
Beryllium	(Total)	Beryllium
alpha-BHC	319-84-6	Cyclohexane, 1,2,3,4,5,6-hexachloro- (1 α ,2 α ,3 β ,4 α ,5 β ,6 β)-
beta-BHC	319-85-7	Cyclohexane, 1,2,3,4,5,6-hexachloro- (1 α ,2 β ,3 α ,4 β ,5 α ,6 β)-
delta-BHC	319-86-8	Cyclohexane, 1,2,3,4,5,6-hexachloro- (1 α ,2 α ,3 α ,4 β , 5 α ,6 β)-
gamma-BHC; Lindane	58-89-9	Cyclohexane, 1,2,3,4,5,6-hexachloro- (1 α ,2 α ,3 β ,4 α ,5 α ,6 β)-
Bis(2-chloroethoxy)methane	111-91-1	Ethane, 1,1'- [methylenebis(oxy)]bis[2-chloro-
Bis(2-chloroethyl)ether	111-44-4	Ethane, 1,1'-oxybis[2-chloro-
Bis(2-chloro-1-methylethyl) ether; 2,2'-Dichlorodiisopropyl ether	108-60-1 See Note 4	Propane, 2,2'-oxybis[1-chloro-
Bis(2-ethylhexyl) phthalate	117-81-7	1,2-Benzene-dicarboxylic acid; bis(2-ethylhexyl) ester
Bromochloromethane; Chlorobromomethane	74-97-5	Methane, bromochloro-
Bromodichloromethane	75-27-4	Methane, bromodichloro-
Bromoform; Tribromomethane	75-25-2	Methane, tribromo-
4-Bromophenyl phenyl ether	101-55-3	Benzene, 1-bromo-4-phenoxy-
Butyl benzyl phthalate; Benzyl butyl phthalate	85-68-7	1,2-Benzenedicarboxylic acid; butyl phenylmethyl ester
Cadmium	(Total)	Cadmium
Carbon disulfide	75-15-0	Carbon disulfide
Carbon tetrachloride	56-23-5	Methane, tetrachloro-
Chlordane	57-74-9 See Note 5	4,7-Methano-1H-indene, 1,2,4,5,6,7,8,8-octachloro-2,3,3a,4,7,7a- hexahydro-
p-Chloroaniline	106-47-8	Benzenamine, 4-chloro-
Chlorobenzene	108-90-7	Benzene, chloro-
Chlorobenzilate	510-15-6	Benzenoacetic acid, 4-chloro- α -(4-chlorophenyl)- α -hydroxy-, ethyl ester
p-Chloro-m-cresol	59-50-7	Phenol, 4-chloro-3-methyl-
Chloroethane; Ethyl chloride	75-00-3	Ethane, chloro-
Chloroform	67-66-3	Methane, trichloro-
2-Chloronaphthalene	91-58-7	Naphthalene, 2-chloro-
2-Chlorophenol	95-57-8	Phenol, 2-chloro-
4-Chlorophenyl phenyl ether	7005-72-3	Benzene, 1-chloro-4-phenoxy-

Table 2		
Assessment Monitoring Parameters		
Common Name ¹	CAS RN ²	Chemical Abstracts Service Index Name ³
Chloroprene	126-99-8	1,3-Butadiene, 2-chloro-
Chromium	(Total)	Chromium
Chrysene	218-01-9	Chrysene
Cobalt	(Total)	Cobalt
Copper	(Total)	Copper
m-Cresol	108-39-4	Phenol, 3-methyl-
o-Cresol	95-48-7	Phenol, 2-methyl-
p-Cresol	106-44-5	Phenol, 4-methyl-
Cyanide	57-12-5	Cyanide
2,4-D; 2,4-Dichlorophenoxyacetic acid	94-75-7	Acetic acid, (2,4-dichlorophenoxy)-
4,4'-DDD	72-54-8	Benzene 1,1'-(2,2-dichloroethylidene) bis[4-chloro-
4,4'-DDE	72-55-9	Benzene, 1,1'-(dichloroethenylidene) bis[4-chloro-
4,4'-DDT	50-29-3	Benzene, 1,1'-(2,2,2-trichloroethylidene) bis[4-chloro-
Diallate	2303-16-4	Carbamothioic acid, bis(1-methyl- ethyl)-, S-(2,3-dichloro-2-propenyl) ester
Dibenz[a,h]- anthracene	53-70-3	Dibenz[a,h] anthracene
Dibenzofuran	132-64-9	Dibenzofuran
Dibromochloromethane; Chlorodibromomethane	124-48-1	Methane, dibromochloro-
1,2-Dibromo-3-chloropropane; DBCP	96-12-8	Propane, 1,2-dibromo-3-chloro-
1,2-Dibromoethane; Ethylene dibromide	106-93-4	Ethane, 1,2-dibromo-
Di-n-butyl phthalate	84-74-2	1,2-Benzene dicarboxylic acid, dibutyl ester
o-Dichlorobenzene	95-50-1	Benzene, 1,2-dichloro-
m-Dichlorobenzene	541-73-1	Benzene, 1,3-dichloro-
p-Dichlorobenzene	106-46-7	Benzene, 1,4-dichloro-
3,3'-Dichlorobenzidine	91-94-1	[1,1'-Biphenyl]-4,4'-diamine, 3,3'- dichloro-
trans-1,4-Dichloro-2-butene	110-57-6	2-Butene, 1,4-dichloro-, (E)-
Dichlorodifluoromethane	75-71-8	Methane, dichlorodifluoro-
1,1-Dichloroethane	75-34-3	Ethane, 1,1-dichloro-
1,2-Dichloroethane; Ethylene dichloride	107-06-2	Ethane, 1,2-dichloro-
1,1-Dichloroethylene; Vinylidene chloride	75-35-4	Ethene, 1,1-dichloro
cis-1,2-Dichloroethylene; cis-1,2-Dichloroethene	156-59-2	Ethene, 1,2-dichloro-, (Z)-
trans-1,2-Dichloroethylene	156-60-5	Ethene, 1,2-dichloro-(E)-
2,4-Dichlorophenol	120-83-2	Phenol, 2,4-dichloro-
2,6-Dichlorophenol	87-65-0	Phenol, 2,6-dichloro-
1,2-Dichloropropane	78-87-5	Propane, 1,2-dichloro-
1,3-Dichloropropane; Trimethylene dichloride	142-28-9	Propane, 1,3-dichloro-
2,2-Dichloropropane; Isopropylidene chloride	594-20-7	Propane, 2,2-dichloro-
1,1-Dichloropropene	563-58-6	1-Propene, 1,1-dichloro-
cis-1,3-Dichloropropene	10061-01-5	1-Propene, 1,3-dichloro-, (Z)-
trans-1,3-Dichloropropene	10061-02-6	1-Propene, 1,3-dichloro-, (E)-
Dieldrin	60-57-1	2,7:3,6-Dimethanonaphth[2,3-b]oxirene, 3,4,5,6,9,9-hexachloro- 1a,2,2a,3,6,6a,7, 7a-octahydro-, (1aa,2β,2aa,3β,6β,6aa, 7β,7aa)-
Diethyl phthalate	84-66-2	1,2-Benzenedicarboxylic acid, diethyl ester
O,O-Diethyl O-2-pyrazinyl phosphorothioate; Thionazin	297-97-2	Phosphorothioic acid, O,O-diethyl O-pyrazinyl ester
Dimethoate	60-51-5	Phosphorodithioic acid, O,O-dimethyl-S-[2-(methylamino)-2-oxoethyl] ester
p-(Dimethylamino)azobenzene	60-11-7	Benzenamine, N,N-dimethyl-4- (phenylazo)-
7,12-Dimethylbenz[a] anthracene	57-97-6	Benz[a]anthracene, 7,12-dimethyl-
3,3'-Dimethylbenzidine	119-93-7	[1,1'-Biphenyl]-4,4'-diamine, 3,3'- dimethyl-
alpha, & alpha-Dimethylphenethylamine	122-09-8	Benzeneethanamine, αα-dimethyl
2,4-Dimethylphenol	105-67-9	Phenol, 2,4-dimethyl-
Dimethyl phthalate	131-11-3	1,2-Benzenedicarboxylic acid, dimethyl ester
m-Dinitrobenzene	99-65-0	Benzene, 1,3-dinitro-
4,6-Dinitro-o-cresol	534-52-1	Phenol, 2-methyl-4,6-dinitro-
2,4-Dinitrophenol	51-28-5	Phenol, 2,4-dinitro-
2,4-Dinitrotoluene	121-14-2	Benzene, 1-methyl-2,4-dinitro-
2,6-Dinitrotoluene	606-20-2	Benzene, 2-methyl-1,3-dinitro-
Dinoseb; DNB; 2-sec-Butyl- 4,6-dinitrophenol	88-85-7	Phenol, 2-(1-methyl- propyl)-4,6-dinitro-
Di-n-octyl phthalate	117-84-0	1,2-Benzenedicarboxylic acid, dioctyl ester
Diphenylamine	122-39-4	Benzenamine, N-phenyl-
Disulfoton	298-04-4	Phosphorodithioic acid, O,O-diethyl S- [2-(ethylthio) ethyl]ester

Table 2		
Assessment Monitoring Parameters		
Common Name ¹	CAS RN ²	Chemical Abstracts Service Index Name ³
Endosulfan I	959-98-8	6,9-Methano-2,4,3 benzodioxathiepin, 6,7,8,9,10,10-hexachloro -1,5,5a,6,9,9a- hexahydro-,3-oxide, (3 α ,5 α ,6 α ,9 α ,9 α)-
Endosulfan II	33213-65-9	6,9-Methano-2,4,3 benzodioxathiepin, 6,7,8,9,10,10-hexachloro -1,5,5a,6,9,9a- hexahydro-,3-oxide, (3 α ,5 α ,6 β ,9 β ,9 α)-
Endosulfan sulfate	1031-07-8	6,9-Methano-2,4,3 benzodioxathiepin, 6,7,8,9,10,10-hexachloro -1,5,5a,6,9,9a- hexahydro-,3,3-dioxide
Endrin	72-20-8	2,7:3,6-Dimethanonaphth [2,3-b]oxirene, 3,4,5,6,9,9-hexachloro- 1a,2,2a,3,6,6a, 7,7a-octahydro-, (1 α ,2 β ,2 α ,3 α ,6 α ,6 β , 7 β ,7 α)-
Endrin aldehyde	7421-93-4	1,2,4-Methenocyclopenta[cd]- pentalene-5-carboxaldehyde, 2,2a,3,3,4,7-hexachlorodecahydro- (1 α ,2 β ,2 α ,4 β ,4 α ,5 β , 6 α ,6 β ,7R*)
Ethylbenzene	100-41-4	Benzene, ethyl-
Ethyl methacrylate	97-63-2	2-Propenoic acid, 2-methyl-, ethyl ester
Ethyl methanesulfonate	62-50-0	Methanesulfonic acid, ethyl ester
Famphur	52-85-7	Phosphorothioic acid, O-[4-[(dimethyl- amino)-sulfonyl] phenyl]-O,O-dimethyl ester
Fluoranthene	206-44-0	Fluoranthene
Fluorene	86-73-7	9H-Fluorene
Heptachlor	76-44-8	4,7-Methano-1H-indene, 1,4,5,6,7,8,8- heptachloro-3a,4,7,7a-tetrahydro-
Heptachlor epoxide	1024-57-3	2,5-Methano-2H-indeno [1,2-b]oxirene, 2,3,4,5,6,7,7-heptachloro- 1a,1b,5,5a,6,6a-hexahydro-, (1 α ,1 β ,2 α ,5 α ,5 α ,6 β ,6 α)
Hexachlorobenzene	118-74-1	Benzene, hexachloro-
Hexachlorobutadiene	87-68-3	1,3-Butadiene, 1,1,2,3,4,4-hexachloro-
Hexachlorocyclopentadiene	77-47-4	1,3-Cyclopentadiene
Hexachloroethane	67-72-1	Ethane, hexachloro-
Hexachloropropene	1888-71-7	1-Propene, 1,1,2,3,3,3-hexachloro-
2-Hexanone	591-78-6	2-Hexanone
Indeno(1,2,3-cd) pyrene	193-39-5	Indeno[1,2,3-cd] pyrene
Isobutyl alcohol	78-83-1	1-Propanol, 2-methyl-
Isodrin	465-73-6	1,4:5,8-Dimethanonaphthalene, 1,2,3,4, 10,10-hexachloro-1,4,4a,5,8,8a- hexahydro- (1 α ,4 α ,4 α ,5 β ,8 β ,8 α)-
Isophorone	78-59-1	2-Cyclohexen-1-one, 3,5,5-tri-methyl-
Isosafrole	120-58-1	1,3-Benzodioxole, 5-(1-propenyl)-
Kepone	143-50-0	1,3,4-Metheno-2H- cyclobuta-[cd] pentalen-2-one, 1,1a,3,3a,4,5,5,5a,5b,6- decachlorooctahydro-
Lead	(Total)	Lead
Mercury	(Total)	Mercury
Methacrylonitrile	126-98-7	2-Propene, nitrile 2-methyl-
Methapyrilene	91-80-5	1,2-Ethanediamine, N,N-dimethyl-N'-2- pyridinyl-N'-(2-thienylmethyl)-
Methoxychlor	72-43-5	Benzene, 1,1'-(2,2,2, trichloroethylidene) bis[4-methoxy-
Methyl bromide; Bromomethane	74-83-9	Methane, bromo-
Methyl chloride; Chloromethane	74-87-3	Methane, chloro-
3-Methylcholanthrene	56-49-5	Benz[<i>j</i>]aceanthrylene, 1,2-dihydro- 3-methyl-
Methyl ethyl ketone; MEK	78-93-3	2-Butanone
Methyl iodide; Iodomethane	74-88-4	Methane, iodo-
Methyl methacrylate	80-62-6	2-Propenoic acid, 2-methyl-, methyl ester
Methyl methanesulfonate	66-27-3	methanesulfonic acid, methyl ester
2-Methylnaphthalene	91-57-6	Naphthalene, 2-methyl-
Methyl parathion; Parathion methyl	298-00-0	Phosphorothioic acid, O,O-dimethyl O-(4-nitrophenyl) ester
4-Methyl-2-pentanone; Methyl isobutyl ketone	108-10-1	2-Pentanone, 4-methyl
Methylene bromide; Dibromomethane	74-95-3	Methane, dibromo-
Methylene chloride; Dichloromethane	75-09-2	Methane, dichloro-
Naphthalene	91-20-3	Naphthalene
1,4-Naphthoquinone	130-15-4	1,4-Naphthalenedione
1-Naphthylamine	134-32-7	1-Naphthalenamine
2-Naphthylamine	91-59-8	2-Naphthalenamine
Nickel	(Total)	Nickel
o-Nitroaniline	88-74-4	Benzenamine, 2-nitro-
m-Nitroaniline	99-09-2	Benzenamine, 3-nitro-
p-Nitroaniline	100-01-6	Benzenamine, 4-nitro-
Nitrobenzene	98-95-3	Benzene, nitro-

Table 2		
Assessment Monitoring Parameters		
Common Name ¹	CAS RN ²	Chemical Abstracts Service Index Name ³
o-Nitrophenol	88-75-5	Phenol, 2-nitro-
p-Nitrophenol	100-02-7	Phenol, 4-nitro
N-Nitrosodi-n-butylamine	924-16-3	1-Butanamine, N-butyl-N-nitroso-
N-Nitrosodiethylamine	55-18-5	Ethanamine, N-ethyl-N-nitroso-
N-Nitrosodimethylamine	62-75-9	Methanamine, N-methyl-N-nitroso-
N-Nitrosodiphenylamine	86-30-6	Benzenamine, N-nitroso-N-phenyl-
N-Nitrosodipropylamine; Di-n-propylnitrosamine	621-64-7	1-Propanamine, N-nitroso-N-propyl-
N-Nitrosomethylethylamine	10595-95-6	Ethanamine, N-methyl-N-nitroso-
N-Nitrosopiperidine	100-75-4	Piperidine, 1-nitroso-
N-Nitrosopyrrolidine	930-55-2	Pyrrolidine, 1-nitroso-
5-Nitro-o-toluidine	99-55-8	Benzenamine, 2- methyl-5-nitro-
Parathion	56-38-2	Phosphorothioic acid, O,O-diethyl O-(4-nitrophenyl) ester
Pentachlorobenzene	608-93-5	Benzene, pentachloro-
Pentachloronitrobenzene	82-68-8	Benzene, pentachloronitro-
Pentachlorophenol	87-86-5	Phenol, pentachloro-
Phenacetin	62-44-2	Acetamide, N-(4-ethoxyphenyl)
Phenanthrene	85-01-8	Phenanthrene
Phenol	108-95-2	Phenol
p-Phenylenediamine	106-50-3	1,4-Benzenediamine
Phorate	298-02-2	Phosphorodithioic acid, O,O-diethyl S-[(ethylthio)methyl] ester
Polychlorinated biphenyls; PCBs	See Note 6	1,1'-Biphenyl, chloro derivatives
Pronamide	23950-58-5	Benzamide, 3,5-dichloro-N- (1,1-dimethyl-2-propynyl)-
Propionitrile; Ethyl cyanide	107-12-0	Propanenitrile
Pyrene	129-00-0	Pyrene
Safrole	94-59-7	1,3-Benzodioxole, 5-(2-propenyl)-
Selenium	(Total)	Selenium
Silver	(Total)	Silver
Silvex; 2,4,5-TP	93-72-1	Propanoic acid, 2-(2,4,5-trichlorophenoxy)-
Styrene	100-42-5	Benzene, ethenyl-
Sulfide	18496-25-8	Sulfide
2,4,5-T; 2,4,5-Trichlorophenoxyacetic acid	93-76-5	Acetic acid, (2,4,5-trichlorophenoxy)-
2,3,7,8-TCDD; 2,3,7,8-Tetrachlorodibenzo-p-dioxin	1746-01-6	Dibenzo[b,e][1,4]dioxin, 2,3,7,8-tetrachloro-
1,2,4,5-Tetrachlorobenzene	95-94-3	Benzene, 1,2,4,5-tetrachloro-
1,1,1,2-Tetrachloroethane	630-20-6	Ethane, 1,1,1,2-tetrachloro-
1,1,2,2-Tetrachloroethane	79-34-5	Ethane, 1,1,2,2-tetrachloro-
Tetrachloroethylene; Perchloroethylene; Tetrachloroethene	127-18-4	Ethene, tetrachloro-
2,3,4,6-Tetrachlorophenol	58-90-2	Phenol, 2,3,4,6-tetrachloro-
Thallium	(Total)	Thallium
Tin	(Total)	Tin
Toluene	108-88-3	Benzene, methyl-
o-Toluidine	95-53-4	Benzenamine, 2-methyl-
Toxaphene	8001-35-2 See Note 7	Toxaphene
1,2,4-Trichlorobenzene	120-82-1	Benzene, 1,2,4-trichloro
1,1,1-Trichloroethane; Methylchloroform	71-55-6	Ethane, 1,1,1-trichloro-
1,1,2-Trichloroethane	79-00-5	Ethane, 1,1,2-trichloro-
Trichloroethylene; Trichloroethene	79-01-6	Ethene, trichloro-
Trichlorofluoromethane	75-69-4	Methane, trichlorofluoro-
2,4,5-Trichlorophenol	95-95-4	Phenol, 2,4,5-trichloro-
2,4,6-Trichlorophenol	88-06-2	Phenol, 2,4,6-trichloro-
1,2,3-Trichloropropane	96-18-4	Propane, 1,2,3-trichloro-
O,O,O-Triethyl phosphorothioate	126-68-1	Phosphorothioic acid, O,O,O-triethyl ester
sym-Trinitrobenzene	99-35-4	Benzene, 1,3,5-trinitro
Vanadium	(Total)	Vanadium
Vinyl acetate	108-05-4	Acetic acid, ethenyl ester
Vinyl chloride	75-01-4	Ethene, chloro-
Xylene (total)	1330-20-7 See Note 8	Benzene, dimethyl-
Zinc	(Total)	Zinc

Notes:

¹ Common names are those widely used in government regulations, scientific publications, and commerce; synonyms exist for many chemicals.

² Chemical Abstracts Service registry number. Where "Total" is entered, all species in the groundwater that contain this element are included.

³ CAS index numbers are those used in the 9th Collective Index.

⁴ This substance is often called Bis(2-chloroisopropyl) ether, the name that Chemical Abstracts Service applies to its noncommercial isomer, Propane, 2,2'-oxybis[2-chloro- (CAS RN 39638-32-9).

⁵ Chlordane: This entry includes alpha-chlordane (CAS RN 5103-71-9), beta-chlordane (CAS RN 5103-74-2), gamma-chlordane (CAS RN 5566-

34-7), and constituents of chlordane (CAS RN 57-74-9 and CAS RN 12789-03-6).

⁶ Polychlorinated biphenyls (CAS RN 1336-36-3); this category contains congener chemicals, including constituents of Aroclor 1016 (CAS RN 12674-11-2), Aroclor 1221 (CAS RN 11104-28-2), Aroclor 1232 (CAS RN 11141-16-5), Aroclor 1242 (CAS RN 53469-21-9), Aroclor 1248 (CAS RN 12672-29-6), Aroclor 1254 (CAS RN 11097-69-1), and Aroclor 1260 (CAS RN 11096-82-5).

⁷ Toxaphene: This entry includes congener chemicals contained in technical toxaphene (CAS RN 8001-35-2), i.e., chlorinated camphene.

⁸ Xylene (total): This entry includes o-xylene (CAS RN 96-47-6), m-xylene (CAS RN 108-38-3), p-xylene (CAS RN 106-42-3), and unspecified xylenes (dimethylbenzenes) (CAS RN 1330-20-7).

DECISION TREE DIAGRAM. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1109 (June 2007), LR 34:

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

A public hearing will be held on May 27, 2008, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 North Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Parking in the Galvez Garage is free with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by MM006ft. Such comments must be received no later than May 27, 2008, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. The comment period for this Rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of MM006ft. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Baratavia Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM
Executive Counsel

0804#093

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary Legal Affairs Division

Regulatory Permits for Oil and Gas Well Testing,
Release of Natural Gas from Pipelines, Emergency
Engines, and Air Curtain Incinerators
(LAC 33:III.301, 303, 305, 307,
309, 311, 313, and 501)(AQ274)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to adopt and amend the Air regulations, LAC 33:III.301, 303, 305, 307, 309, 311, 313, and 501 (Log #AQ274).

Act 115 of the 2006 Regular Session of the Louisiana Legislature allows the department to develop and promulgate regulatory permits for certain sources of air emissions pursuant to R.S. 30:2054(B)(9). This proposed rule outlines the requirements and limitations imposed by R.S. 30:2054(B)(9) on regulatory permits to be developed by the department and establishes several specific regulatory permits. 1) The regulatory permit for oil and gas well testing will authorize air emissions from temporary separators, tanks, meters, and fluid-handling equipment necessary to test the content of a subsurface stratum believed to contain crude oil or natural gas and/or to establish the proper design of a permanent fluid-handling facility. 2) The regulatory permit for release of natural gas from pipelines and associated equipment will authorize air emissions resulting from unavoidable releases and flaring of natural gas due to metering, purging, and maintenance operations. 3) The regulatory permit for emergency engines will authorize air emissions from stationary emergency electrical power generators, emergency firewater pumps, and emergency air compressors. 4) The regulatory permit for portable air curtain incinerators (ACIs) will authorize air emissions from portable ACIs, the engine that drives the fan mechanism, and the associated fuel storage tank. The authorization to emit air emissions pursuant to the provisions of any regulatory permit will become effective only upon notification by the department that the application required by the regulatory permit has been determined to be complete. The basis and rationale for this rule are to establish regulatory provisions outlining the statutory requirements and limitations of regulatory permits. This proposed Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33
ENVIRONMENTAL QUALITY

Part III. Air

Chapter 3. Regulatory Permits

§301. Purpose

A. This Chapter establishes regulatory permits as authorized by R.S. 30:2054(B)(9). Regulatory permits may be used to authorize emissions of *air contaminants* as defined in LAC 33:III.111 from the sources and activities identified in this Chapter by notifying the department of the planned activity using the appropriate form provided by the department. Sources and activities not addressed by a regulatory permit must be authorized in accordance with LAC 33:III.Chapter 5.

B. Eligibility for a regulatory permit does not confer a vested right to coverage under such a permit. The department may require any person authorized to emit under a regulatory permit to apply for and/or obtain a site-specific air permit in accordance with LAC 33:III.Chapter 5. If the department requires a permittee authorized to emit under a regulatory permit to apply for a site-specific air permit, the department will notify the permittee in writing that a permit application is required. This notification will include a brief statement of the reasons for this decision, a deadline for the permittee to file the application, and a statement that on the effective date of issuance or denial of the site-specific air permit, coverage under the regulatory permit will automatically terminate. If a permittee fails to submit a site-specific air permit application as required by the date specified by the department, then the applicability of the regulatory permit to the individual permittee will be automatically terminated at the end of the day specified by the department for application submittal. The department may grant additional time to submit the application for a site-specific air permit upon request of the applicant.

C. The department is not precluded from using a regulatory permit to authorize air emissions from an activity at a source operating under a site-specific air permit issued pursuant to LAC 33:III.Chapter 5 provided all eligibility requirements of the regulatory permit are satisfied.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 34:

§303. Requirements and Limitations of Regulatory Permits

A. Regulatory permits cannot be used to authorize construction of a *major source*, as defined in LAC 33:III.502, or a *major modification*, as defined in LAC 33:III.504.K and 509.B.

B. Use of a regulatory permit may be precluded by specific permit conditions contained within a Part 70 operating permit.

C. Regulatory permits shall not authorize the maintenance of a nuisance or a danger to public health or safety.

D. All emissions control equipment specifically required by, or otherwise installed in order to comply with, the terms and conditions of a regulatory permit shall be maintained in good condition and operated properly.

E. Regulatory permits shall not preclude the administrative authority from exercising all powers and

duties as set forth in R.S. 30:2011(D) including, but not limited to, the authority to conduct inspections and investigations and enter facilities, as provided in R.S. 30:2012, and to sample or monitor, for the purpose of assuring compliance with a regulatory permit or as otherwise authorized by the Louisiana Environmental Quality Act, the Clean Air Act, or regulations adopted thereunder, any substance or parameter at any location.

F. Regulatory permits shall require compliance with all applicable provisions of the Louisiana air quality regulations, the Louisiana Environmental Quality Act, and the federal Clean Air Act. Violation of the terms or conditions of a regulatory permit constitutes a violation of the Louisiana air quality regulations, the Louisiana Environmental Quality Act, or the federal Clean Air Act, as applicable.

G. Regulatory permits shall, as appropriate, prescribe such emission limitations, necessary control requirements, and other enforceable conditions, and associated monitoring, recordkeeping, and reporting provisions, as are necessary for the protection of public health and the environment.

H. Regulatory permits shall require any person seeking such a permit to submit a written notification describing the planned activity and any appropriate fee to the department. Submission of a written notification and appropriate fee shall be in lieu of submission of an individual permit application. The written notification shall be signed and certified by a *responsible official* as defined in LAC 33:III.502. The certification shall state that, based on information and belief formed after reasonable inquiry, the statements and information contained in the notification are true, accurate, and complete.

I. All regulatory permits shall establish notification procedures, permit terms, and provisions for confirmation of notification by the administrative authority and shall be promulgated in accordance with the procedures provided in R.S. 30:2019.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 34:

§305. Construction and Operation

A. No construction or operation of any source or activity addressed by a regulatory permit shall commence until the appropriate permit fee has been paid and the administrative authority has notified the applicant that the application (i.e., notification form) submitted in accordance with LAC 33:III.303.H has been determined to be complete.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 34:

§307. Regulatory Permit for Oil and Gas Well Testing

A. Applicability. This regulatory permit authorizes the operation of temporary separators, tanks, meters, and fluid-handling equipment, including loading facilities, necessary to test the content of a subsurface stratum believed to contain petroleum liquids or natural gas and/or to establish the proper design of a permanent fluid-handling facility, subject to the requirements established herein, upon notification by the administrative authority that the

application (i.e., notification form) submitted in accordance with Subsection C of this Section has been determined to be complete.

B. Control Requirements. For purposes of this Section, volumes of natural gas should be calculated at *standard conditions*, as defined in LAC 33:III.111.

1. Releases of natural gas less than 2.5 million (MM) cubic feet in volume require no controls.

2. Releases of natural gas greater than or equal to 2.5 MM cubic feet in volume shall be controlled by flaring. Flaring must continue until less than 0.25 MM cubic feet of gas remains to be released, at which time flaring is no longer required.

3. Notwithstanding the volumes specified in Paragraphs B.1 and 2 of this Section, releases that will result in total VOC emissions of 5,000 pounds or more; benzene emissions equal to or exceeding its minimum emission rate (MER) established by LAC 33:III.5112, Table 51.1; or total benzene, toluene, ethylbenzene, and xylene (BTEX) emissions of 2,000 pounds or more shall be controlled by flaring. Flaring must continue until less than 0.25 MM cubic feet of gas remains to be released, at which time flaring is no longer required.

C. Notification Requirements

1. The following information shall be submitted to the Office of Environmental Services using the appropriate form provided by the department:

- a. the name of the owner or operator;
- b. the physical location of the well;
- c. the date(s) and expected duration of the activity;
- d. a description of the processes and equipment involved, including control measures, if required; and
- e. the estimated emissions associated with the testing event, including the anticipated volume of natural gas to be flared or released and the amount of crude oil and condensate to be produced. Emissions of toxic air pollutants (TAPs) listed in LAC 33:III.5112, Tables 51.1 and 51.3, shall be specified.

2. A copy of the notification required by Paragraph C.1 of this Section shall be submitted to the appropriate DEQ Regional Office.

3. A separate notification shall be submitted for each testing event.

4. The notification shall be submitted such that it is received by the department at least three working days prior to the testing event.

D. The authorization for the specific testing event addressed by the application submitted in accordance with Subsection C of this Section shall remain effective for 180 days following the date on which the administrative authority determines that the application is complete.

E. Operation of temporary separators, tanks, meters, and fluid-handling equipment beyond 10 operating days shall not be authorized by this regulatory permit and must be approved separately by the administrative authority.

F. Recordkeeping and Reporting. The following information shall be recorded and submitted to the Office of Environmental Services no later than 30 calendar days after completion of the testing event:

1. the date(s) and duration of the testing event;

2. the actual volumes of natural gas flared and natural gas released, as well as the total amount of crude oil and condensate produced; and

3. the actual criteria pollutant and TAP emissions associated with the testing event.

G. In accordance with LAC 33:III.Chapter 2, the fee for this regulatory permit shall be \$300 (fee number 1710). There shall be no annual maintenance fee associated with this regulatory permit.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 34:

§309. Regulatory Permit for Release of Natural Gas from Pipelines and Associated Equipment

A. Applicability. This regulatory permit authorizes the release of natural gas from pipelines and associated equipment resulting from metering, purging, and maintenance operations, subject to the requirements established herein, upon notification by the administrative authority that the application (i.e., notification form) submitted in accordance with Subsection C of this Section has been determined to be complete.

B. Control Requirements. For purposes of this Section, volumes of natural gas should be calculated at *standard conditions*, as defined in LAC 33:III.111.

1. Releases of natural gas greater than or equal to 1.0 million (MM) cubic feet, but less than 2.5 MM cubic feet, in volume require no controls.

2. Releases of natural gas greater than or equal to 2.5 MM cubic feet in volume shall be controlled by flaring. Flaring must continue until less than 0.25 MM cubic feet of gas remains to be released, at which time flaring is no longer required.

3. Notwithstanding the volumes specified in Paragraphs B.1 and 2 of this Section, releases that will result in total VOC emissions of 5,000 pounds or more; benzene emissions equal to or exceeding its minimum emission rate (MER) established by LAC 33:III.5112, Table 51.1; or total benzene, toluene, ethylbenzene, and xylene (BTEX) emissions of 2,000 pounds or more shall be controlled by flaring. Flaring must continue until less than 0.25 MM cubic feet of gas remains to be released, at which time flaring is no longer required.

4. Natural gas releases covered by this regulatory permit shall have a hydrogen sulfide (H₂S) content of no more than 0.25 grains per 100 standard cubic feet.

C. Notification Requirements

1. The following information shall be submitted to the Office of Environmental Services using the appropriate form provided by the department:

- a. the name of the owner or operator;
- b. the type of, and reason for, the activity;
- c. the physical location;
- d. the date(s) and expected duration of the activity;
- e. a description of the processes and equipment involved, including control measures, if required;
- f. the estimated emissions associated with the metering, purging, or maintenance operation, including the volume of natural gas to be flared or released. Emissions of

toxic air pollutants (TAPs) listed in LAC 33:III.5112, Tables 51.1 and 51.3, shall be speciated; and

g. the approximate H₂S content in the natural gas.

2. A copy of the notification required by Paragraph C.1 of this Section shall be submitted to the appropriate DEQ Regional Office.

3. A separate notification shall be submitted for each metering, purging, or maintenance operation.

4. The notification shall be submitted such that it is received by the department at least three working days prior to the metering, purging, or maintenance event. In emergency situations, the department will waive the three-working day requirement.

D. The authorization for a release from the specific metering, purging, or maintenance operation addressed by the application submitted in accordance with Subsection C of this Section shall remain effective for 60 days following the date on which the administrative authority determines that the application is complete.

E. This regulatory permit does not authorize releases from metering, purging, or maintenance operations associated with pipelines carrying refined petroleum products (e.g., ethylene, propylene, 1,3-butadiene).

F. Conducting metering, purging, and maintenance operations beyond 10 operating days at a single location shall not be authorized by this regulatory permit and must be approved separately by the administrative authority.

G. Resetting of flow meters (changing orifice plates, etc.) and calibration of meters are considered routine activities and are not classified as purging or maintenance operations.

H. Recordkeeping and Reporting. The following information shall be recorded and submitted to the Office of Environmental Services no later than 30 calendar days after completion of the metering, purging, or maintenance operation:

1. the date(s) and duration of the metering, purging, or maintenance operation;

2. the actual volumes of natural gas flared and natural gas released; and

3. the actual criteria pollutant and TAP emissions associated with the metering, purging, or maintenance operation.

I. In accordance with LAC 33:III.Chapter 2, the fee for this regulatory permit shall be \$300 (fee number 1710). There shall be no annual maintenance fee associated with this regulatory permit.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 34:

§311. Regulatory Permit for Emergency Engines

A. Applicability

1. This regulatory permit authorizes the installation and use of stationary emergency engines, including electrical power generators, firewater pumps, and air compressors, subject to the requirements established herein, upon notification by the administrative authority that the application (i.e., notification form) submitted in accordance with Subsection L of this Section has been determined to be complete. This regulatory permit also authorizes the

associated fuel storage tank provided the capacity of the tank is less than 10,000 gallons.

2. This regulatory permit may be used to authorize the use of both permanent and temporary emergency engines.

3. This regulatory permit does not apply to:

a. emergency electrical power generators deemed insignificant in accordance with item B.45 in the insignificant activities list in LAC 33:III.501.B.5; and

b. *nonroad engines*, as defined at 40 CFR 1068.30.

4. This regulatory permit cannot be used to authorize use of an emergency engine that combusts noncommercial fuels, including used crankcase oil or any other used oil, facility byproducts, or any other type of waste material.

5. This regulatory permit cannot be used to authorize use of an emergency engine that, when considering potential emissions from the engine and potential emissions from the remainder of the stationary source, would result in the creation of a major source of criteria pollutants, hazardous air pollutants, or toxic air pollutants.

B. Definitions

Emergency Engine—any stationary internal combustion engine (ICE) whose operation is limited to emergency situations (e.g., involuntary power curtailment, power unavailability, maintenance activity that requires the main source of power to be shut down) and required readiness testing and maintenance checks.

C. Opacity

1. Limitations

a. *Smoke*. The emission of smoke shall be controlled so that the shade or appearance of the emission is not darker than 20 percent average opacity, except that the emissions may have an average opacity in excess of 20 percent for not more than one 6-minute period in any 60 consecutive minutes.

b. *Particulate Matter*. The emission of particulate matter shall be controlled so that the shade or appearance of the emission is not denser than 20 percent average opacity, except that the emissions may have an average opacity in excess of 20 percent for not more than one 6-minute period in any 60 consecutive minutes.

c. When the presence of uncombined water is the only reason for failure of an emission to meet the requirements of this Subsection, this Subsection will not apply.

2. Monitoring and Recordkeeping

a. The permittee shall inspect each emergency engine's stack for visible emissions once each month or at each readiness testing event if the engine is tested at a frequency less than monthly.

b. If visible emissions are detected for a period longer than 6 consecutive minutes, the permittee shall conduct a 6-minute opacity reading in accordance with Method 9 of 40 CFR 60, Appendix A, during the next required visible emissions check.

c. If the shade or appearance of the emission is darker than 20 percent average opacity (per Method 9), the permittee shall take corrective action to return the engine to its proper operating condition, and the 6-minute opacity reading in accordance with Method 9 shall be repeated. The permittee shall notify the Office of Environmental Compliance no later than 30 calendar days after any Method 9 reading in excess of 20 percent average opacity. This

notification shall include the date the visual check was performed, results of the Method 9 testing, and a record of the corrective action employed.

d. Records of visible emissions checks shall include the emergency engine's ID number, the engine's serial number, the date the visual check was performed, a record of emissions if visible emissions were detected for a period longer than 6 consecutive minutes, the results of any Method 9 testing conducted, and a record of any corrective action employed. These records shall be kept on-site and available for inspection by the Office of Environmental Compliance.

D. Fuel Sulfur Content

1. The permittee shall not combust distillate oil that contains greater than 0.5 weight percent sulfur.

2. A statement from the fuel oil supplier that each shipment of distillate oil delivered to the facility complies with the specifications of this Subsection shall be kept on-site and available for inspection by the Office of Environmental Compliance.

E. Operating Time

1. Operating time of each emergency engine shall be limited to 500 hours per 12-consecutive-month period. The department may suspend this limit by a declaration of emergency.

2. Operating time of each emergency engine shall be monitored by any technically-sound means, except that a run-time meter shall be required for all permanent units.

3. Operating time of each emergency engine shall be recorded each month, as well as its operating time for the last 12 months. These records shall be kept on-site for five years and available for inspection by the Office of Environmental Compliance.

F. New Source Performance Standards

1. 40 CFR 60, Subpart IIII—Standards of Performance for Stationary Compression Ignition (CI) Internal Combustion Engines

a. Each emergency stationary CI internal combustion engine (ICE) that commences construction after July 11, 2005, and that meets any of the following conditions, must comply with the applicable provisions of 40 CFR 60, Subpart IIII—Standards of Performance for Stationary Compression Ignition Internal Combustion Engines, unless the engine is exempted as described in 40 CFR 60.4200(d):

i. the stationary CI ICE is manufactured after April 1, 2006, and is not a fire pump engine;

ii. the stationary CI ICE is manufactured as a certified National Fire Protection Association (NFPA) fire pump engine after July 1, 2006; or

iii. the stationary CI ICE is modified or reconstructed after July 11, 2005.

b. The date that construction commences is the date the engine is ordered by the owner or operator.

c. Terms used in this Paragraph are defined in 40 CFR 60.4219, except that *modification* is defined in 40 CFR 60.2 and further described in 40 CFR 60.14, and *reconstruction* is defined in 40 CFR 60.15.

2. 40 CFR 60, Subpart JJJJ—Standards of Performance for Stationary Spark Ignition (SI) Internal Combustion Engines

a. Each emergency stationary SI ICE that commences construction after June 12, 2006, and that meets

either of the following conditions, must comply with the applicable provisions of 40 CFR 60, Subpart JJJJ—Standards of Performance for Stationary Spark Ignition Internal Combustion Engines, unless the engine is exempted as described in 40 CFR 60.4230(e) or meets the conditions set forth in 40 CFR 60.4230(f):

i. the stationary SI ICE is manufactured on or after January 1, 2009; or

ii. the stationary SI ICE is modified or reconstructed after June 12, 2006.

b. The date that construction commences is the date the engine is ordered by the owner or operator.

c. Terms used in this Paragraph are defined in 40 CFR 60.4248, except that *modification* is defined in 40 CFR 60.2 and further described in 40 CFR 60.14, and *reconstruction* is defined in 40 CFR 60.15.

G. National Emissions Standards for Hazardous Air Pollutants

1. Existing Emergency Stationary Reciprocating Internal Combustion Engine (RICE)

a. For a stationary RICE with a site rating of more than 500 brake horsepower (HP) located at a major source of hazardous air pollutant (HAP) emissions, the stationary RICE is existing if the owner or operator commenced construction or reconstruction of the stationary RICE before December 19, 2002.

b. For a stationary RICE with a site rating of less than or equal to 500 brake HP located at a major source of HAP emissions, the stationary RICE is existing if the owner or operator commenced construction or reconstruction of the stationary RICE before June 12, 2006.

c. For a stationary RICE located at an area source of HAP emissions, the stationary RICE is existing if the owner or operator commenced construction or reconstruction of the stationary RICE before June 12, 2006.

d. A change in ownership of an existing stationary RICE does not make that stationary RICE a new or reconstructed stationary RICE.

e. In accordance with 40 CFR 63.6590(b)(3), no initial notification is necessary for an existing emergency stationary RICE.

2. New or Reconstructed Emergency Stationary RICE

a. New Stationary RICE

i. A stationary RICE with a site rating of more than 500 brake HP located at a major source of HAP emissions is new if the owner or operator commenced construction of the stationary RICE on or after December 19, 2002.

ii. A stationary RICE with a site rating of equal to or less than 500 brake HP located at a major source of HAP emissions is new if the owner or operator commenced construction of the stationary RICE on or after June 12, 2006.

iii. A stationary RICE located at an area source of HAP emissions is new if the owner or operator commenced construction of the stationary RICE on or after June 12, 2006.

b. Reconstructed Stationary RICE

i. A stationary RICE with a site rating of more than 500 brake HP located at a major source of HAP emissions is reconstructed if the owner or operator satisfies the definition of *reconstruction* in 40 CFR 63.2 and

reconstruction is commenced on or after December 19, 2002.

ii. A stationary RICE with a site rating of equal to or less than 500 brake HP located at a major source of HAP emissions is reconstructed if the owner or operator satisfies the definition of *reconstruction* in 40 CFR 63.2 and reconstruction is commenced on or after June 12, 2006.

iii. A stationary RICE located at an area source of HAP emissions is reconstructed if the owner or operator satisfies the definition of *reconstruction* in 40 CFR 63.2 and reconstruction is commenced on or after June 12, 2006.

c. Each new or reconstructed emergency stationary RICE with a site rating of more than 500 brake HP located at a major source of HAP emissions shall comply with the initial notification requirements of 40 CFR 63, Subpart ZZZZ—National Emissions Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines. In accordance with 40 CFR 63.6645(f), the notification shall include the information in 40 CFR 63.9(b)(2)(i) - (v), a statement that the stationary RICE has no additional requirements, and an explanation of the basis of the exclusion.

d. Each new or reconstructed stationary RICE that is located at an area source or that is an emergency stationary RICE with a site rating of less than or equal to 500 brake HP located at a major source of HAP emissions shall meet the requirements of 40 CFR 60, Subpart IIII for CI engines or 40 CFR 60, Subpart JJJJ for SI engines. No further requirements apply for such engines under 40 CFR 63.

3. Terms used in this Subsection are defined in 40 CFR 63.6675.

H. Temporary Emergency Engines

1. For each temporary emergency engine brought on-site, record the date the unit is delivered; its make, model, and manufacturer's rated horsepower; the fuel type; and the date the unit was removed from the site. These records shall be kept on-site and available for inspection by the Office of Environmental Compliance.

2. The authorization for the use of any emergency engine identified as being temporary shall remain effective for 12 months following the date on which the administrative authority determines that the application submitted in accordance with Subsection L of this Section is complete. If the permittee determines that an emergency engine originally identified as temporary will remain on site longer than 12 months, a new application (i.e., notification form) shall be submitted in accordance with Subsection L of this Section prior to expiration of the authorization to operate under this regulatory permit as provided in this Paragraph.

I. Permanent Emergency Engines. Permanent emergency engines authorized by this regulatory permit shall be included in the next renewal or modification of the facility's existing permit, if a permit is required pursuant to LAC 33:III.501.

J. Gasoline storage tanks associated with an emergency engine and with a nominal capacity of more than 250 gallons shall be equipped with a submerged fill pipe.

K. Emissions Inventory. Each facility subject to LAC 33:III.919 shall include emissions from all emergency

engines, including temporary units, authorized by this regulatory permit in its annual emissions statement.

L. Notification Requirements. Written notification describing the planned activity shall be submitted to the Office of Environmental Services using the appropriate form provided by the department. A separate notification shall be submitted for each emergency engine.

M. In accordance with LAC 33:III.Chapter 2, the fee for this regulatory permit is \$713.00 (fee number 1722). In accordance with LAC 33:III.209 and 211, the annual maintenance fee associated with this regulatory permit shall be \$143.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 34:

§313. Regulatory Permit for Portable Air Curtain Incinerators

A. Applicability

1. This regulatory permit authorizes the installation and use of portable air curtain incinerators, subject to the requirements established herein, upon notification by the administrative authority that the application (i.e., notification form) submitted in accordance with Subsection E of this Section has been determined to be complete. This regulatory permit also authorizes the engine that drives the fan mechanism and the associated fuel storage tank.

2. This regulatory permit does not apply to an air curtain incinerator that:

a. has a manufacturer's rated capacity greater than 10 tons per hour;

b. is operated at a commercial, industrial, or institutional facility;

c. combusts 100 percent yard waste, defined as grass, grass clippings, bushes, shrubs, and clippings from bushes and shrubs, originating from residential, commercial/retail, institutional, or industrial sources as part of maintaining yards or other private or public lands;

d. incinerates waste collected from the general public; collected from residential, commercial, institutional, or industrial sources; or otherwise generated at a location other than the operational site; or

e. remains at a single operational site (not to include storage locations) for more than 90 consecutive days.

B. Definitions

Air Curtain Incinerator (ACI)—an incinerator that operates by forcefully projecting a curtain of air across an open chamber or pit in which combustion occurs. Incinerators of this type can be constructed above or below ground and with or without refractory walls and floor.

Institutional Facility—a facility operated by an organization having a governmental, educational, civic, or religious purpose, such as a school, hospital, prison, military installation, church, or other similar establishment.

C. Operating Requirements

1. Visible Emissions

a. Opacity from the ACI shall not exceed 20 percent, except for a 30-minute start-up period once per day during which opacity shall not exceed 35 percent.

b. The emission of smoke, suspended particulate matter, or uncombined water, or any air contaminants or

combinations thereof, that 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.

c. The owner or operator shall conduct a 6-minute opacity reading in accordance with Method 9 of 40 CFR 60, Appendix A, upon request of the department. Results shall be kept on-site and available for inspection by the Office of Environmental Compliance.

2. Approved Wastes

a. The ACI shall be used to burn only untreated wood, wood refuse, untreated wood products (i.e., crates, pallets, etc.), trees, branches, leaves, grass, and/or other vegetable matter.

b. The owner or operator shall use only clean oils (e.g., diesel fuel, No. 2 fuel oil, kerosene) to ignite waste.

3. Operating Locations

a. The owner or operator shall not locate the ACI at any permitted municipal or sanitary landfill.

b. The ACI must be situated at least 1,000 feet from any dwelling other than a dwelling or structure located on the property on which the burning is conducted, unless the location has been approved by the appropriate DEQ Regional Office.

c. Relocation. The owner or operator shall notify the department prior to moving the ACI to a new operating site. Approval must be obtained before operations at the new site can commence.

4. The owner or operator shall restrict incineration to the time period from 8 a.m. to 5 p.m. each day. Piles of combustible material should be of such size as to allow complete reduction in this time interval.

5. The owner or operator shall obtain all necessary permits from local and/or state agencies.

6. The owner or operator shall install on the ACI a manufacturer's nameplate giving the manufacturer's name and the unit's model number and capacity.

7. The owner or operator shall maintain the ACI to design standards and shall not operate the ACI if any equipment is malfunctioning.

8. The owner or operator shall use care to minimize the amount of dirt on the material being burned.

9. Material shall not be added to the ACI in such a manner as to be stacked above the air curtain.

10. An operator shall remain with the ACI at all times when it is operating.

11. Annual operation of the ACI shall be limited to no more than 1,500 hours per year.

D. Recordkeeping and Reporting

1. A daily record of the hours of operation of the ACI shall be kept on-site and available for review by the Office of Environmental Compliance. Daily records shall include the time combustion commences and the time the fire is completely extinguished.

2. Annual hours of operation for the preceding calendar year shall be reported to the Office of Environmental Compliance annually by February 15.

E. Notification Requirements. Written notification describing the planned activity shall be submitted to the Office of Environmental Services using the appropriate form provided by the department. A separate notification shall be submitted for each air curtain incinerator.

F. In accordance with LAC 33:III.Chapter 2, the fee for this regulatory permit is \$2,394 (fee number 1520). If emissions from the ACI are such that it qualifies for a small source permit as described in LAC 33:III.503.B.2, the fee is \$713 (fee number 1722), in accordance with LAC 33:III.211.B.13.e. In accordance with LAC 33:III.209 and 211, the annual maintenance fee associated with this regulatory permit shall be \$478, if fee number 1520 is applicable, or \$143, if fee number 1722 is applicable.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 34:

Chapter 5. Permit Procedures

§501. Scope and Applicability

A. - B.8. ...

C. Scope

1. Except as specified in LAC 33:III.Chapter 3, for each source to which this Chapter applies, the owner or operator shall submit a timely and complete permit application to the Office of Environmental Services as required in accordance with the procedures delineated herein. Permit applications shall be submitted prior to construction, reconstruction, or modification unless otherwise provided in this Chapter.

2. Except as specified in LAC 33:III.Chapter 3, no construction, modification, or operation of a facility which ultimately may result in an initiation of, or an increase in, emission of *air contaminants* as defined in LAC 33:III.111 shall commence until the appropriate permit fee has been paid (in accordance with LAC 33:III.Chapter 2) and a permit (certificate of approval) has been issued by the permitting authority.

3. - 13. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011 and 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 16:613 (July 1990), LR 17:478 (May 1991), LR 19:1420 (November 1993), LR 20:1281 (November 1994), LR 20:1375 (December 1994), LR 23:1677 (December 1997), amended by the Office of the Secretary, LR 25:660 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2445 (November 2000), LR 28:997 (May 2002), amended by the Office of Environmental Assessment, LR 31:1063 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2436 (October 2005), LR 32:1842 (October 2006), LR 33:2082 (October 2007), LR 33:2626 (December 2007), LR 34:

Family Impact Statement

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

A public hearing will be held on May 27, 2008, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the

address given below or at (225) 219-3550. Parking in the Galvez Garage is free with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ274. Such comments must be received no later than June 3, 2008, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ274. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM
Executive Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Regulatory Permits for Oil and Gas Well Testing, Release of Natural Gas from Pipelines, Emergency Engines, and Air Curtain Incinerators

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

There will be no costs to local government units or to state agencies. The required notification form will be specifically tailored to the activity addressed by the regulatory permit and will replace existing permit application forms. This permitting mechanism should increase efficiency of the department.

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

No increase in revenue will be realized. R.S. 30:2054(B)(9)(b)(vii) requires an applicant seeking a regulatory permit to submit "any fee authorized by this Subtitle and applicable regulations to the secretary ... in lieu of submission of a permit application." This fee is equivalent to and in place of that which would have been required if a permit had been sought and issued pursuant to LAC 33:III.501, or another approval mechanism (e.g., variance) had been employed, to authorize air emissions from the activity covered by the regulatory permit.

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

Use of a notification form specifically tailored to the activity addressed by the regulatory permit should allow for the department's review of such documents to be streamlined. In this way, a final decision on the proposed project should generally be reached more expeditiously, and delay costs will therefore be avoided.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment in the public or private sector.

Herman Robinson, CPM
Executive Counsel
0804#021

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary Legal Affairs Division

Terms and Conditions of Licenses (LAC 33:XV.326)(RP049ft)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Radiation Protection regulations, LAC 33:XV.326 (Log #RP049ft).

This proposed Rule is identical to federal regulations found in 10 CFR 30.34, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3550 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the proposed Rule. This Rule will be promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

This Rule will update the state regulations to be compatible with the changes in the federal regulations. The change in the state regulations is a category C (recommended to do) requirement of the NRC agreement. The federal "Terms and Conditions of Licenses" requirements are listed in 10 CFR 30.34. This Rule includes regulations to prevent radioactive material in gauges from unauthorized removal when not in use or not attended, such as when in storage or in transport. This is a security requirement for portable gauges containing radioactive material. The basis and rationale for this Rule are to be compatible with the federal regulations and maintain an adequate Agreement State program. This proposed Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33

ENVIRONMENTAL QUALITY

Part XV. Radiation Protection

Chapter 3. Licensing of Radioactive Material

Subchapter D. Specific Licenses

§326. Special Requirements for Issuance of Certain Specific Licenses for Radioactive Material

A. - A.8. ...

B. Security Requirements for Portable Gauges. Each portable gauge licensee shall use a minimum of two independent physical controls that form tangible barriers to

secure portable gauges from unauthorized removal, whenever portable gauges are not under the control and constant surveillance of the licensee.

C. - E.1.k. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), LR 24:2092 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2569 (November 2000), LR 27:1228 (August 2001), LR 30:1188 (June 2004), amended by the Office of Environmental Assessment, LR 31:45 (January 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2525 (October 2005), LR 33:2178 (October 2007), LR 34:

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

A public hearing will be held on May 27, 2008, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 North Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Parking in the Galvez Garage is free with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by RP049ft. Such comments must be received no later than May 27, 2008, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. The comment period for this rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of RP049ft. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 North Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM
Executive Counsel

0804#095

NOTICE OF INTENT

Office of the Governor Board of Home Inspectors

Home Inspectors Training
(LAC 46:XL.117)

The Board of Home Inspectors proposes to amend LAC 46:XL.117, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Louisiana Home Inspector Licensing Law, R.S. 37:1471 et seq. The proposed text is being amended and adopted to provide additional revenue for the board during this period of a slumped housing market. The proposed Rule amendments have no known impact on family formation, stability, and autonomy as described in R.S. 49:972. The proposed amended Section is set forth below.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XL. Home Inspectors

Chapter 1. General Rules

§117. Fees; Submission of Report Fees; Timeliness of Filings

A. Fees charged by LSBHI are as follows:

1. - 6. ...

7. Inspection report \$ 7

B. Each home inspection performed by an inspector under this law shall be subject to a \$7 state inspection fee per home inspection. This fee is to be made payable to the LSBHI and is to be remitted monthly in the following manner:

B.1. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475-1477, and R.S. 37:1479.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2740 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 34:

Interested parties may submit written comments to Don Lewis, Chief Operating Officer, Louisiana State Board of Home Inspectors, 4668 Jamestown Avenue, Suite 220, Baton Rouge, LA, 70898, or by facsimile to (225) 248-1335. Comments will be accepted through the close of business May 5, 2008. If it becomes necessary to convene a public hearing to receive comments in accordance with the Administrative Procedure Act, the hearing will be held on June 6, 2008 at 10 a.m. at the Office of the State Board of Home Inspectors, 4664 Jamestown, Suite 220, Baton Rouge, LA.

Albert J. Nicaud
Board Attorney

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

RULE TITLE: Home Inspectors Training

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

The board expects minimal costs associated with the publication of the Amendments and adopted rules. Licensees and the interested public will be informed of these rule changes via the Board's regular newsletter, direct mailings, website postings or other means of communication at a minimal cost.

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

There will be an effect on revenue collections of state or local governmental units resulting from the two dollar per inspection increase in fees resulting from the amendment. The Board of Home Inspectors is self funded and relies primarily on revenues from home inspections. Its budget is subject to significant shortfalls during periods of slow housing markets. This increased cost will allow the Board to balance its operating budget which has suffered a short fall this past fiscal year. Without the small increase, the Board projects another shortfall in its 2008 fiscal year.

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

There will be an increased cost to the consumer of two dollars per home inspection.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no impact on competition and employment anticipated as a result of the proposed rule changes.

Albert J. Nicaud
Board Attorney
0804#001

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Division of Administration
Office of Facility Planning and Control**

**Design-Build Method of Procuring Design
and Construction Services
(LAC 34:III.161-199)**

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the provisions of R.S. 39:121, the Division of Administration, Office of Facility Planning and Control hereby gives notice of its intent to adopt a new Rule: LAC 34:III, Chapter 1. Capital Improvement Projects, Subchapter C, Design-Build Method of Procuring Design and Construction Services. This Rule is required by Act 373 of 2007 and provides rules for its use as authorized by the Act.

The text of this proposed Rule may be viewed in the Emergency Rule portion of this issue of the *Louisiana Register*.

Family Impact Statement

1. The Effect of this Rule on the Stability of the Family. This Rule will have no effect on the Stability of the Family.

2. The Effect of this Rule on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. This Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect of this Rule on the Functioning of the Family. This Rule will have no effect on the functioning of the family.

4. The Effect of this Rule on Family Earnings and Family Budget. This Rule will have no effect on family earnings and family budget.

5. The Effect of this Rule on the Behavior and Personal Responsibility of Children. This Rule will have no effect on the behavior and personal responsibility of children.

6. The Effect of this Rule on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rule. This Rule will have no effect on the ability of the family or local government to perform the function as contained in the proposed Rule.

Interested persons may submit comments to William Morrison, Office of Facility Planning and Control, P.O. Box 94095, Baton Rouge, LA 70804-9095. Written comments will be accepted through May 10, 2008.

Jerry W. Jones
Director

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

**RULE TITLE: Design-Build Method of Procuring
Design and Construction Services**

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

The proposed rule change will have no impact on costs (savings) to state or local governmental units. This rule change merely implements the provisions of Act 373 of 2007 which authorizes a political subdivision to execute design-build contracts in the construction or repair of any building or structure or other public work in certain areas where a gubernatorial declared state of emergency exists as a result of Hurricanes Katrina and/or Rita.

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

The proposed rule change will have no effect on revenue collections of state or local governmental entities.

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

The construction industry including designers, construction contractors, building trades and other support groups will be affected by this. It should reduce the aggregate time to design and construct or repair projects allowing these groups to complete more projects in the same time period.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The Act and subsequent rule will have a positive impact on competition by providing an avenue for price and qualifications based contractor selection rather than by price alone. The proposed rule change will have no effect on employment.

Jerry W. Jones
Director
0804#051

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Dentistry

Examination of Dentists and Dental Hygienists (LAC 46:XXXIII.1709 and 1711)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Dental Practice Act, R.S. 37:751 et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.1709 and 1711. No preamble has been prepared. There will be no family impact in regard to issues set forth in R.S. 49:972.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXXIII. Dental Health Profession

Chapter 17. Licensure Examinations

§1709. Examination of Dentists

A. Any person desiring to be licensed as a dentist may apply to the Council of Interstate Testing Agencies and shall verify the information required on the application by oath. The application shall include two recent photographs. There shall be an application fee set by the Council of Interstate Testing Agencies. There shall also be an examination fee set by the Louisiana State University School of Dentistry.

B. An applicant shall be entitled to take the examinations required in this Section to practice dentistry in this state if such applicant:

1. is 18 years of age or older;
2. is of good moral character;
3. is a graduate of a dental school accredited by the Commission on Dental Accreditation of the American Dental Association or its successor agency, if any, or any other nationally recognized accrediting agency; and
4. has successfully completed the National Board of Dental Examiners Dental Examination within 10 years of the date of application.

C. To be licensed as a dentist in this state, an applicant must successfully complete the clinical licensing examination as administered by the Council of Interstate Testing Agencies (CITA), Central Regional Dental Testing Service (CRDTS), Northeast Regional Board (NERB), Southern Regional Testing Agency (SRTA), American Dental Examination (ADEX), or Western Regional Examining Board (WREB).

1. The board requires that applicants shall successfully complete the clinical licensing examinations set forth herein with a score of 75 percent. Those applicants completing the Western Regional Examining Board shall successfully complete their examination with a score of at least 75 percent on each and every component of the examination.

D. The board is expressly authorized to utilize the services of other licensed dentists to facilitate the examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(1) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1119 (June 1998),

amended LR 28:2513 (December 2002), LR 33:2654 (December 2007), LR 34:

§1711. Examination of Dental Hygienists

A. Any person desiring to be licensed as a dental hygienist may apply to the Council of Interstate Testing Agencies and shall verify the information required on the application by oath. The application shall include two recent photographs of the applicant. There shall be a nonrefundable application fee set by the Council of Interstate Testing Agencies, and a clinical fee payable to the Louisiana State University School of Dentistry which shall not exceed \$100 and which may be refundable if the applicant is found ineligible to take the examination.

B. An applicant shall be entitled to take the examinations required in this Section to practice dental hygiene in this state if such applicant:

1. is 18 years of age or older;
2. is of good moral character;
3. is a graduate of a dental hygiene college or school approved by the board or accredited by the Commission on Accreditation of the American Dental Association or its successor agency; and
4. has successfully completed the National Board Dental Hygiene Examination as administered by the American Dental Association.

C. To be licensed as a dental hygienist in this state, an applicant must successfully complete the following:

1. a written examination on the jurisprudence and ethics of the state regulating the practice of dental hygiene;
2. a practical or clinical examination as administered by the Council of Interstate Testing Agencies (CITA), Central Regional Dental Testing Service (CRDTS), Northeast Regional Board (NERB), Southern Regional Testing Agency (SRTA), American Dental Examination (ADEX), or Western Regional Examining Board (WREB) which shall test the competency of the applicant's ability.

3. The board requires that applicants shall successfully complete the clinical licensing examinations set forth herein with a score of 75 percent. Those applicants completing the Western Regional Examining Board shall successfully complete their examination with a score of at least 75 percent on each and every component of the examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(1) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1119 (June 1998), amended LR 28:1779 (August 2002), LR 33:2654 (December 2007), LR 34:

Interested persons may submit written comments on these proposed Rule changes to C. Barry Ogden, Executive Director, Louisiana State Board of Dentistry, One Canal Place, Suite 2680, 365 Canal Street, New Orleans, LA 70130. Written comments must be submitted to and received by the board within 60 days of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the board within 20 days of the date of this notice.

C. Barry Ogden
Executive Director

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

**RULE TITLE: Examination of Dentists
and Dental Hygienists**

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

There will be a one-time cost of \$500 in FY 07-08 for publication of the proposed rule in the *Louisiana Register* and in a mass mailing which is sent to all licensees every summer.

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

The proposed rules are not anticipated to increase the revenue collections of the board.

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

The proposed rules sets the minimum score the Louisiana State Board of Dentistry will accept to evidence successful completion of any dental licensing examination at 75%. It also notifies applicants (approximately 60) that they may make an application to the Council of Interstate Testing Agencies for a licensing examination.

The proposed rule sets they minimum score the Louisiana Board of Dentistry will accept to evidence successfl completion of any dental hygiene licensing examination at 75% It also notifies applicants (approximately 80) that they may make an application to the Council of Interstate Testing Agencies for a licensing examination.

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

There is no estimated effect on competition and employment.

C. Barry Ogden
Executive Director
0804#007

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Examiners of Psychologists**

Criminal History Records Information and
Continuing Education
(LAC 46:LXIII.103, 201, 403, 813, and Chapter 12)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Examiners of Psychologists intends to amend LAC 46:LXIII.103, 201, 403, and 813 and adopt LAC 46:LXIII.1201, 1203, 1205, 1207, 1209, 1211, 1213, and 1215.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXIII. Psychologists

Chapter 1. Definitions

§103. Definition of Applicant for Licensure

A. An applicant is a person who submits to the board the required application fee and the complete prescribed application which includes evidence that the person:

1. is at least 21 years of age; and
2. is of good moral character; and
3. is a citizen of the United States or has declared an intention to become a citizen. A statement by the person,

under oath, to apply for citizenship upon becoming eligible to make such application shall be sufficient proof of compliance with this requirement; and

4. holds a doctoral degree with a major in psychology from a university offering a full-time graduate course of study in psychology that is approved by the board with such requirements as designated in the board's rules and regulations; and

5. has a minimum of two years of experience practicing psychology under the supervision of a psychologist, one year of which may be a predoctoral internship as defined in the rules and regulations of the board and required as part of the doctoral degree in psychology as defined by the board and all other experience being postdoctoral; and

6. is not in violation of any of the provisions of R.S. 37:2351-2367 and the rules and regulations adopted thereunder; and

7. submits such number of full sets of fingerprints and fees and costs as may be incurred by the board in requesting or obtaining criminal history record information as authorized by R.S. 37:2372.1, and in the form and manner prescribed by the boards rules and regulations. The results of the criminal history record information search to be obtained, reviewed and considered acceptable by the board prior to admission to candidacy status.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 5:248 (August 1979), amended by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 34:

Chapter 2. Reciprocity

§201. Licensure of Psychologists through Reciprocity

A. - B. ...

C. Applicants for reciprocal licensing must submit such number of full sets of fingerprints, or other identifiable information, and fees and costs as may be incurred by the board in requesting or obtaining criminal history record information as authorized by R.S. 37:2372.1, and in the form and manner prescribed by the boards rules and regulations. The results of the criminal history record information search to be obtained, reviewed and considered acceptable by the board prior to admission to candidacy status.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 23:861 (July 1997), amended by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 27:723 (May 2001), LR 29:2075 (October 2003), LR 34:

Chapter 4. Certificate of Prescriptive Authority

§403. Application for Certificate of Prescriptive Authority

A. - A.4.g. ...

5. As a condition for eligibility for the issuance a Certificate of Prescriptive Authority the applicant must submit such number of full sets of fingerprints, or other identifiable information, and fees and costs as may be incurred by the board in requesting or obtaining criminal history record information as authorized by R.S. 37:2372.1

and in the form and manner prescribed by the boards rules and regulations.

B. - B.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2371-2378.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 31:70 (January 2005), amended LR 32:1228 (July 2006), LR 33:458 (March 2007), LR 34:

Chapter 8. Continuing Education

§813. Noncompliance

A. - B. ...

C. If the licensee fails to meet continuing education requirements by the appropriate date, the license shall be regarded as lapsed at the close of business July 31 of the year for which the licensee is seeking renewal.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2357.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 19:47 (January 1993), amended LR 32:1229 (July 2006), LR 34:

Chapter 12. Criminal History Records Information

§1201. Scope of Chapter

A. The rules of this Chapter govern the collection and use of criminal history records information in connection with applications for an initial license, renewal, or reinstatement of a license of a psychologist in conformity with R.S. 37:2372.1

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2372.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 34:

§1203. Definitions

A. As used in this Chapter, the following terms shall have the meanings specified.

Applicant—an individual who has made application to the board for the issuance or reinstatement of any license, permit, certificate, or registration which the board is authorized by law to issue.

Board—the Louisiana State Board of Examiners of Psychologists.

Bureau—the Louisiana Bureau of Criminal Identification and Information of the Office of State Police within the Department of Public Safety and Corrections.

Criminal History Record Information—information collected by the bureau or the Federal Bureau of Investigation of the United States Department of Justice or an individual consisting of detentions, indictments, bills of information, or any formal criminal charges and any disposition arising therefrom, including sentencing, criminal correctional supervision and release. Criminal history record information does not include information collected for intelligence or investigatory purposes nor does it include any identification information which does not indicate involvement of the individual in the criminal justice system.

FBI—the Federal Bureau of Investigation of the United States Department of Justice.

Licensure or License—any license, permit, certification, or registration which the board is authorized by law to issue.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2372.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 34:

§1205. Criminal History Record Information Requirement

A. As a condition for eligibility for the issuance of an initial license or the reinstatement of any license, an applicant must submit such number of full sets of fingerprints, other identifiable information, and fees and costs as may be incurred by the board in requesting or obtaining criminal history record information, in the form and manner prescribed in §1209.

B. The board will use the fingerprints to request and obtain criminal history record information relative to the applicant as provided in R.S. 37:2372.1.

C. The application of an applicant who fails to comply with the requirements set forth in §1205.A shall be deemed incomplete and shall not be considered by the board unless and until such requirements have been satisfied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2372.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 34:

§1207. Effect of Application

A. The submission of an application for licensure to the board shall constitute and operate as an acknowledgement and authorization by the applicant to any state or federal agency, including, but not limited to, the bureau and the FBI, to disclose and release to the board any and all state, national, or foreign criminal history record information; the submission of an application for licensure to the board shall equally constitute and operate as a consent by the applicant for disclosure and release of such information and as a waiver by the applicant of any privilege or right of confidentiality which the applicant would otherwise possess with respect thereto.

B. The submission of an application for licensure to the board shall constitute and operate as an acknowledgement and authorization by the applicant for the board's utilization of criminal history record information to determine his or her suitability and eligibility for licensure, and whether just cause exists for the board to refuse to issue, suspend, revoke, or impose probationary or other terms, conditions, or restrictions on any license held or applied for by an applicant in the state of Louisiana for violation of any of the causes specified by R.S. 37:2359 or 37:2360, and the board's rules respecting any such health care provider as set forth in LAC 46:LXIII.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353, 37:2356 and 37:2372.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 34:

§1209. Procedural Requirements

A. In conformity with the substantive requirements of §1205, an application for licensure, whether initial, by credential, or reinstatement to the board, shall be accompanied by each of the following:

1. two or such other number of fully completed fingerprint record cards, containing all identifiable information requested, as well as certified sets of fingerprints which have been affixed by a sheriff, police officer, or other law enforcement personnel;

2. a check in the amount of no less than \$50 in satisfaction of the fees and costs incurred by the board to process fingerprint cards and to request and to receive

criminal history record information from the bureau and the FBI.

B. Fingerprint cards and instructions pertaining thereto will be supplied by the board upon application.

C. An applicant shall be responsible for any increase in the amounts specified in §1209.A.2, which may be assessed by any state or federal agency, including, but not limited to, the bureau and the FBI, or for the fees and costs which may be incurred by the board in requesting and obtaining criminal history record information. An applicant shall also be responsible for payment of any processing fees and costs resulting from a fingerprint card being rejected by any state or federal agency, including, but not limited to, the bureau and the FBI.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2372.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 34:

§1211. Falsification of Criminal Record Information

A. An applicant who denies the existence or extent of criminal history record information on an application, which is discovered by information, records, or documentation provided by the bureau, FBI, or any other state, national, or foreign jurisdiction shall, in addition to the potential disqualification of licensure for any of the causes specified in §1207.B, be deemed to have provided false, misleading, or deceptive information, or false sworn information on an application for licensure, and to have engaged in unprofessional conduct, providing additional cause for the board to suspend or revoke, refuse to issue, or impose probationary or other restrictions on any license held or applied for by an applicant in the state of Louisiana culpable of such violation, pursuant to R.S. 37:2359 and 37:2360.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2372.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 34:

§1213. Confidentiality of Criminal History Record

Information

A. Criminal history record information obtained by the board pursuant to R.S. 37:2372.1 and the rules of this Chapter, which is not already a matter of public record or to which the privilege of confidentiality has not otherwise been waived or abandoned, shall be deemed nonpublic and confidential information, restricted to and utilized exclusively by the board, its officers, members, investigators, employees, agents, and attorneys in evaluating the applicant's eligibility or disqualification for licensure. Criminal history record information shall not, except with the written consent of the applicant or by the order of a court of competent jurisdiction, be released or otherwise disclosed by the board to any other person or agency, provided, however, that any such information or documents which are admitted into evidence and made part of the administrative record in any adjudicatory proceeding before the board shall become public records upon the filing of a petition for judicial review of the board's final decision therein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2372.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychology, LR 34:

§1215. Exceptions to Criminal History Information Requirement

A. The criminal history record information requirements prescribed by this Chapter shall not be applicable to a psychologist applicant who seeks:

1. a temporary registration issued in accordance with LAC 46:LXIII.

B. The criminal history record information requirements prescribed by §§1201-1213 may be waived in such instances as the board, in its discretion, may deem necessary or appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2372.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychology, LR 34:

Family Impact Statement

The Board of Examiners of Psychologists hereby issues this Family Impact Statement as set forth in R.S. 49:972. The proposed amendments and adoption of the rules related to the criminal history records information search of applicants for licensure as psychologists as well as the training and credentials and continuing education requirements of psychologists are implemented to safeguard the public welfare of this state and will have no known or foreseeable impact on the stability of the family; authority and rights of parents regarding the education and supervision of their children; functioning of the family; family earnings and family budget; behavior and personal responsibility of children; or, the ability of the family or a local government to perform the function as contained in the proposed Rule.

Interested persons may submit written comments to Jaime T. Monic, Executive Director, 8280 YMCA Plaza Dr., Bldg. 8-B, Baton Rouge, LA 70810. All comments must be submitted by 12 p.m., May 19, 2008.

Jaime T. Monic
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Criminal History Records Information and Continuing Education

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

The estimated implementation cost related to publishing the proposed and final rule in the Louisiana Register totals \$238 in FY07-08 and only applies to the Board of Examiners of Psychologists. Additionally, it is estimated that the Board will expend approximately \$2,000 annually to cover the cost of preparing and processing additional application materials and postage associated with requesting and obtaining criminal history information on applicants (approximately 40 per year).

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

The proposed rule will increase the revenue collections of the Board by approximately \$2,000 annually.

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

This proposed rule will affect approximately 40 applicants annually who are seeking licensure and/or certification for prescriptive authority by requiring the applicant to pay to the

Board, the fee required by the Louisiana Bureau of Criminal Identification and Information of the Office of State Police within the Department of Public Safety and Corrections and the Federal Bureau of Investigation of the United States Department of Justice to process criminal background checks. The fee that the applicant pays to the Board will also defer the costs of postage and production of materials required to conduct criminal background checks (approximately 40 per year) as mandated under LA R.S. 37:2372.1. There is no other impact anticipated from this proposed action.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Jaime T. Monic
Executive Director
0804#060

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Medical Examiners**

**Acupuncturists, Acupuncturist's Assistants, Acupuncture
Detoxification Specialists—General, Certification and
Practice (LAC 46:XLV.Chapters 1, 21, and 51)**

Notice is hereby given in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., that pursuant to the authority vested in the Board of Medical Examiners (board) by the Medical Practice Act, R.S. 37:1261-1292 and the Acupuncture Practice Act, R.S. 37:1356-1360, as amended by Act 452 of the 2007 Session of the Louisiana Legislature, that the board intends to adopt Rules governing certification and practice of acupuncture detoxification specialists (ADS), and amend its existing rules concerning acupuncturists' assistants (AcA) to eliminate the requirement that supervising physicians employ acupuncturist's assistants, and to make other changes consistent with or necessitated by the statutory modifications, LAC 46:XLV, Subpart 1 (General), Chapter 1, §§183-187, Subpart 2 (Licensure and Certification), Chapter 21, §§2101-2131, and Subpart 3 (Practice), Chapter §§5101-5115. The proposed Rules: establish initial and renewal certification fees for ADS, incorporate new and revised definitions, identify qualifications for ADS, supervising physicians and supervising AcAs; establish the application process for ADS; provide for issuance, expiration and renewal of certification; provide for volunteer ADS and AcAs licensed and in good standing in any state to receive a temporary permit to perform acupuncture services in Louisiana on a voluntary, gratuitous basis at locations specified by DHH and/or approved by the board during and following declared emergencies; set forth criteria for clinical practice guidelines or protocols for physician supervision of AcAs; identify criteria for general supervision of ADS; specify the authority and limitations of ADS and AcAs, supervising physicians and supervising AcAs; define the mutual obligations of ADS, AcAs, and their supervising physicians or supervising AcAs; specify causes giving rise to disciplinary action by the board; and make other substantive modifications consistent with the statutory amendments. The proposed amendments also eliminate delays, costs, and

administrative burdens attendant to the application process, eliminate the need to present certain original, notarized documents, and facilitate the board's use of technology for processing forms and applications.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLV. Medical Professions

Subpart 1. General

Chapter 1. Fees and Costs

**Subchapter H. Acupuncturists, Acupuncturists'
Assistants, and Acupuncture
Detoxification Specialists Fees**

§183. Scope of Subchapter

A. The rules of this Subchapter prescribe the fees and costs applicable to the certification of acupuncturists, acupuncturists' assistants and acupuncture detoxification specialists.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 34:

§185. Certification

A. For processing an application for certification as an acupuncturist or as an acupuncturist assistant, a fee of \$200 shall be payable to the board.

B. For processing an application for certification as an acupuncture detoxification specialist, a fee of \$50 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1281 and 37:1360.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:234 (February 2004), LR 34:

§187. Annual Renewal

A. For processing an application for annual renewal of an acupuncturist's or acupuncturist assistant's certification, a fee of \$100 shall be payable to the board.

B. For processing an application for annual renewal of an acupuncture detoxification specialist, a fee of \$25 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1281 and 37:1360.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:908 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:234 (February 2004), LR 34:

Subpart 2. Licensure and Certification

**Chapter 21. Acupuncturists, Acupuncturists'
Assistants, and Acupuncture
Detoxification Specialists**

Subchapter A. General Provisions

§2101. Scope of Chapter

A. The rules of this Chapter govern the certification of acupuncturists and acupuncturists' assistants to perform and practice traditional Chinese acupuncture and of acupuncture detoxification specialists to practice acupuncture detoxification in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1356-37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:334 (March 1993), amended LR 34:

§2103. Definitions

A. As used in this Chapter and Chapter 51, the following terms shall have the meanings specified.

Acupuncture Practice Act or Act—R.S. 37:1356-1360, as hereafter amended or supplemented.

Acupuncture—treatment by means of mechanical, thermal, or electrical stimulation effected by the insertion of needles at a point or combination of points on the surface of the body predetermined on the basis of the theory of the physiological interrelationship of body organs with an associated point or combination of points, or the application of heat or electrical stimulation to such point or points, for the purpose of inducing anesthesia, relieving pain, or healing diseases, disorders, and dysfunctions of the body, or achieving a therapeutic or prophylactic effect with respect thereto.

Acupuncture Detoxification (acu detox)—the treatment by means of insertion of acupuncture needles in a combination of points on the ear in accordance with NADA protocol. The performance of acupuncture detoxification constitutes a subcategory of the practice of acupuncture.

Acupuncture Detoxification Specialist (ADS)—an individual who possesses current certification, duly issued by the board, to practice acupuncture detoxification under the supervision of a physician or acupuncturist's assistant.

Acupuncturist—a physician possessing current certification, duly issued by the board, to practice acupuncture.

Acupuncturist's Assistant (AcA)—an individual possessing current certification, duly issued by the board, to practice acupuncture under the supervision of a physician.

Applicant—a person who has applied to the board for certification as an acupuncturist, acupuncturist's assistant or acupuncture detoxification specialist in the state of Louisiana.

Application—a request directed to and received by the board, in a format approved by the board, for certification to perform or practice acupuncture or acupuncture detoxification in the state of Louisiana, together with all information, certificates, documents, and other materials required by the board to be submitted with such forms.

Board—the Louisiana State Board of Medical Examiners.

Certification—the board's official recognition of an individual's current certificate, duly issued by the board, evidencing the board's certification of such individual under the law.

Clinical Practice Guidelines or Protocols (guidelines or protocols)—a written set of directives or instructions to be followed by an acupuncturist's assistant in the performance of patient care activities containing each of the components specified by §5106.A of these rules. Clinical practice guidelines or protocols are valid for a period not to exceed one year and shall be annually reviewed, updated as appropriate, and signed by the supervising physician and acupuncturist's assistant. The signature of the supervising physician and acupuncturist's assistant and date of review shall be noted on the guidelines or protocols. Guidelines or

protocols shall be maintained at both the primary practice site of the supervising physician and the acupuncturist's assistant, and shall be made available for review and inspection upon request by a representative of the board.

General Supervision—as used in this Chapter and Chapter 51, shall mean responsible oversight of the services rendered by an acupuncture detoxification specialist as specified in §5106.B of these rules.

Good Moral Character—as applied to an applicant, means that:

a. the applicant, if a physician, has not, prior to or during the pendency of an application to the board, been guilty of any act, omission, condition, or circumstance which would provide legal cause under R.S. 37:1285 for the denial, suspension, or revocation of medical licensure;

b. the applicant has not, prior to or during the pendency of an application to the board, been culpable of any act, omission, condition, or circumstance which would provide cause under §5113 of these rules for the suspension or revocation of certification as an acupuncturist, acupuncturist's assistant, or acupuncture detoxification specialist;

c. the applicant has not, prior to or in connection with his application, made any representation to the board, knowingly or unknowingly, which is in fact false or misleading as to a material fact or omits to state any fact or matter that is material to the application; or

d. the applicant has not made any representation or failed to make a representation or engaged in any act or omission which is false, deceptive, fraudulent, or misleading in achieving or obtaining any of the qualifications for certification required by this Chapter.

NADA—the National Acupuncture Detoxification Association.

Physician—an individual lawfully entitled to engage in the practice of medicine in this state as evidenced by a current, unrestricted license duly issued by the board.

Primary practice site—the location at which a supervising physician, acupuncturist's assistant or acupuncture detoxification specialist spends the majority of time in the exercise of the privileges conferred by licensure or certification issued by the board.

Proposed supervising acupuncturist's assistant—an acupuncturist's assistant who has submitted to the board an application for approval as a supervising acupuncturist's assistant.

Proposed supervising physician—a physician who has submitted to the board an application for approval as a supervising physician.

Supervising acupuncturist's assistant—an acupuncturist's assistant registered with the board under this Chapter to provide supervision to an acupuncture detoxification specialist.

Supervising physician—a physician registered with the board under this Chapter to supervise an acupuncturist's assistant or acupuncture detoxification specialist.

Supervision—as to an acupuncturist's assistant, shall mean responsible oversight of the services rendered by an acupuncturist's assistant as specified in §5106.A of these rules.

Universal Precautions—a set of precautions developed by the United States Center for Disease Control (CDC) that

are designed to prevent transmission of human immunodeficiency virus (HIV), hepatitis B virus (HBV) and other blood borne pathogens when providing first aid or health care. Under universal precautions blood and certain bodily fluids of all patients are considered potentially infectious for HIV, HBV and other blood borne pathogens.

B. Masculine terms wheresoever used in this Chapter shall also be deemed to include the feminine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1356-37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:334 (March 1993), amended LR 34:

Subchapter B. Acupuncturist Certification

§2105. Scope of Subchapter

A. The rules of this Subchapter prescribe the qualifications and procedures requisite to certification as an acupuncturist in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 37:1356-37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:335 (March 1993), amended LR 34:

§2107. Qualifications for Certification as Acupuncturist

A. To be eligible for certification as an acupuncturist, an applicant shall:

1. be a physician possessing a current, unrestricted license to practice medicine in the state of Louisiana duly issued by the board;

2. be of good moral character as defined by §2103.A; and

3. have successfully completed:

a. not less than six months of training in traditional Chinese acupuncture in a school or clinic approved by the board pursuant to §§2118-2121 of this Chapter; or

b. not less than three hundred credit hours of continuing medical education in acupuncture designated as category one continuing medical education hours by the American Medical Association.

B. The burden of satisfying the board as to the qualifications and eligibility of the applicant for certification shall be upon the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualifications in the manner prescribed by, and to the satisfaction of, the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 37:1356-37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:335 (March 1993), amended LR 34:

§2109. Application Procedure for Certified Acupuncturist

A. Application for certification as an acupuncturist shall be made in a format approved by the board.

B. An application for certification under this Chapter shall include:

1. proof, documented in a form satisfactory to the board, that the applicant possesses the qualifications set forth in this Chapter; and

2. such other information and documentation as the board may require to evidence qualification for certification.

C. All documentation submitted in a language other than English shall be accompanied by a translation into English certified by a translator other than the applicant who shall

attest to the accuracy of such translation under penalty of perjury.

D. The board may refuse to consider any application which is not complete in every detail, including submission of every document required by the application form. The board may, in its discretion, require a more detailed or complete response to any request for information set forth in the application form as a condition to consideration of an application.

E. Each application submitted to the board shall be accompanied by the applicable fee, as provided in Chapter 1 of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1356-37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:335 (March 1993), amended LR 34:

Subchapter C. Acupuncturist's Assistant and Acupuncture Detoxification Specialist Certification; Registration of Supervising Physician, Supervising Acupuncturist's Assistant

§2111. Scope of Subchapter

A. The rules of this Subchapter prescribe the qualifications and procedures requisite to certification as an acupuncturist's assistant and acupuncture detoxification specialist, and for registration as a supervising physician and supervising acupuncturist's assistant in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1356-37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:335 (March 1993), amended LR 34:

§2113. Qualifications for Certification as an Acupuncturist's Assistant; Qualifications for Registration as Supervising Physician for Acupuncturist's Assistant

A. To be eligible for certification as an acupuncturist's assistant, an applicant:

1. shall be at least 21 years of age;

2. shall be of good moral character as defined by §2103.A;

3. shall have successfully completed a four-year course of instruction in a high school or its equivalent;

4. shall be a citizen of the United States or possess valid and current legal authority to reside and work in the United States duly issued by the commissioner of the Immigration and Naturalization Service of the United States under and pursuant to the Immigration and Nationality Act (66 Stat. 163) and the commissioner's regulations thereunder (8 CFR);

5. shall have either:

a. successfully completed not less than 36 months of training in traditional Chinese acupuncture in a school or clinic approved by the board pursuant to §§2118-2121 of this Chapter; or

b. have been formally appointed or employed to perform acupuncture exclusively for research purposes by and at:

i. an accredited licensed hospital located in the state of Louisiana; or

ii. an accredited school or college of medicine located in the state of Louisiana; or

c. passed the certification examination given by the National Certification Commission for Acupuncture and Oriental Medicine or its successor; and

6. shall affirm that he or she shall only practice under supervision, as defined in §5106.A of these rules.

B. Prior to undertaking the supervision of an acupuncturist's assistant a physician shall be approved by and registered with the board. To be eligible for registration, a proposed supervising physician shall, as of the date of the application:

1. possess a current, unrestricted license to practice medicine in the state of Louisiana; and

2. have been in the active practice of medicine for at least two years following the completion of postgraduate residency training, if any.

C. The board may waive or modify any of the requirements otherwise required by this Chapter for certification under 2113A.5.b., as it may deem necessary or appropriate to effectuate the purposes of this Part.

D. The burden of satisfying the board as to the qualifications and eligibility of the applicant and proposed supervising physician for certification, registration and approval shall be upon the applicant and proposed supervising physician, who shall demonstrate and evidence such qualifications in the manner prescribed by, and to the satisfaction of, the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 37:1356-37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:335 (March 1993), amended, LR 34:

§2114. Qualifications for Certification as an Acupuncture Detoxification Specialist; Qualifications for Registration of Supervising Physician or Supervising Acupuncturist' Assistant

A. To be eligible for certification as an acupuncture detoxification specialist, an applicant:

1. shall be at least 21 years of age;

2. shall be of good moral character as defined by §2103.A of this Chapter;

3. shall have successfully completed a four-year course of instruction in a high school or its equivalent;

4. shall be a citizen of the United States or possess valid and current legal authority to reside and work in the United States duly issued by the commissioner of the Immigration and Naturalization Service of the United States under and pursuant to the Immigration and Nationality Act (66 Stat. 163) and the commissioner's regulations thereunder (8 CFR);

5. shall have:

a. successfully completed NADA training by a registered NADA trainer; and

b. current certification by the NADA to perform acupuncture detoxification; and

6. shall affirm that he or she shall only provide acu detox under the general supervision of a physician or acupuncturist's assistant, as defined in §5106.B of these rules.

B. Prior to undertaking the supervision of an acupuncture detoxification specialist a physician shall be

registered with the board. To be eligible for registration to supervise an ADS a proposed supervising physician shall, as of the date of the application:

1. possess a current, unrestricted license to practice medicine in the state of Louisiana; and

2. not currently be enrolled in any postgraduate residency training.

C. Prior to undertaking the supervision of an acupuncture detoxification specialist an acupuncturist's assistant shall be registered with the board. To be eligible for registration to supervise an ADS a proposed supervising AcA shall, as of the date of the application:

1. possess current, unrestricted certification to practice as an AcA; and

2. have held certification by the board to practice as an AcA in this state for at least two years immediately preceding the date of application.

D. The burden of satisfying the board as to the qualifications and eligibility of the applicant acupuncture detoxification specialist, proposed supervising physician or proposed supervising acupuncturist's assistant shall be upon the applicant, proposed supervising physician or proposed supervising acupuncturist's assistant, who shall demonstrate and evidence such qualifications in the manner prescribed by and to the satisfaction of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1356-37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 34:

§2115. Application Procedure for Acupuncturist's Assistant

A. Application for certification as an acupuncturist's assistant shall be made in a format approved by the board and shall include notification of intent to practice, signed by a proposed supervising physician who is registered with or has applied for registration to the board as a supervising physician.

B. Application for certification and approval under this Subchapter shall include:

1. proof, documented in a form satisfactory to the board that the applicant possesses the qualifications set forth in this Chapter;

2. a description of the proposed supervising physician's professional background and specialty, if any; the nature and scope of his medical practice; the primary practice site and the geographic and demographic characteristics of his medical practice; and the primary practice site and all other addresses or locations of the office or offices where the applicant is to practice acupuncture;

3. a description of the proposed supervising physician's knowledge of and prior training or experience, if any, in traditional Chinese acupuncture;

4. attestation by the applicant and proposed supervising physician certifying that current clinical practice guidelines or protocols conforming to the requirements of 5106A of these rules have been prepared, dated, signed and shall be utilized by the acupuncturist's assistant in the exercise of the privileges conferred by certification under this Part and produced upon request by a representative of the board;

5. attestation by the applicant and proposed supervising physician, certifying the truthfulness and authenticity of all information, representations, and

documents contained in or submitted with the completed application; and

6. such other information and documentation as the board may require.

C. All documentation submitted in a language other than English shall be accompanied by a translation into English certified by a translator other than the applicant who shall attest to the accuracy of such translation under penalty of perjury.

D. The board may reject or refuse to consider any application which is not complete in every detail, including submission of every document required by the application form. The board may in its discretion require a more detailed or complete response to any request for information set forth in the application form as a condition to consideration of an application.

E. Each application submitted to the board shall be accompanied by the applicable fee, as provided in Chapter 1 of these rules.

F. Upon submission of a completed application form, together with the documents required thereby, and the payment of the application fee, the applicant acupuncturist's assistant shall make a personal appearance before a member of the board, or its designee, to be interviewed regarding his or her qualifications for certification and approval under this Chapter and understanding of the authority, limitations, obligations, and responsibilities imposed on acupuncturists' assistants by laws and regulations applicable thereto.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1356-37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:336 (March 1993), amended LR 34:

§2116. Application Procedure for Acupuncture Detoxification Specialist

A. Application for certification as an ADS shall be made in a format approved by the board and shall include notification of intent to practice in a format approved by the board, signed by a proposed supervising physician or proposed supervising acupuncturist's assistant who is registered with or has applied for registration to the board as a supervising physician or supervising acupuncturist's assistant.

B. Application for certification and approval under this Subchapter shall include:

1. proof, documented in a form satisfactory to the board that the applicant possesses the qualifications set forth in of this Chapter;

2. the nature of the proposed supervising physician's practice or supervising acupuncturist's assistant's practice and the primary practice site and/or geographic characteristics of the type of settings or locations where the applicant intends to provide acu detox;

3. the methods to be used to provide general supervision by the proposed supervising physician or supervising acupuncturist's assistant;

4. attestation by the applicant and proposed supervising physician or supervising acupuncturist's assistant certifying that the requirements of 5106B of these rules shall be followed in the exercise of the privileges conferred by certification under this Part;

5. attestation by the applicant and proposed supervising physician or supervising acupuncturist's

assistant certifying the truthfulness and authenticity of all information, representations, and documents contained in or submitted with the completed application; and

6. such other information and documentation as the board may require.

C. All documentation submitted in a language other than English shall be accompanied by a translation into English certified by a translator other than the applicant who shall attest to the accuracy of such translation under penalty of perjury.

D. The board may reject or refuse to consider any application which is not complete in every detail, including submission of every document required by the application. The board may in its discretion require a more detailed or complete response to any request for information set forth in the application form as a condition to consideration of an application.

E. Each application submitted to the board shall be accompanied by the applicable fee, as provided in Chapter 1 of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1356-37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 34:

§2117. Application Procedure for Registration of Supervising Physician or Supervising Acupuncturist's Assistant

A. Application for registration of a supervising physician for an acupuncturist's assistant or acupuncture detoxification specialist or as a supervising AcA for an ADS, shall be made in a format approved by the board, include proof satisfactory to the board that the applicant possesses the qualifications set forth in this Chapter, and contain such other information and documentation as the board may require.

B. The board may reject or refuse to consider any application which is not complete in every detail, including submission of every document required by the application. The board may in its discretion require a more detailed or complete response to any request for information set forth in the application form as a condition to consideration of an application.

C. A separate fee shall not be assessed for registration or approval of a supervising physician for an AcA or ADS or of a supervising AcA for an ADS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1356-37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 34:

Subchapter D. Board Approval of Acupuncture Schools and Clinics

§2118. Scope of Subchapter

A. The rules of this Subchapter provide the method and procedures by which acupuncture schools and clinics are approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 37:1356-37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:336 (March 1993), amended LR 34:

§2119. Applicability of Approval

A. As provided in this Chapter the successful completion of formal training in traditional Chinese acupuncture from a school or clinic approved by the board is among the

alternative qualifications requisite to certification as an acupuncturist or acupuncturist's assistant. This qualification will be deemed to be satisfied if the school or clinic in which the applicant received training in traditional Chinese acupuncture was approved by the board as of the date on which the applicant completed such training.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 37:1356-37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:336 (March 1993), amended LR 34:

§2121. Approval of Acupuncture Schools

A. A school providing training in traditional Chinese acupuncture which is currently accredited by the Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM), or its predecessor, the National Accreditation Commission for Schools and Colleges of Acupuncture and Oriental Medicine (NACSCAOM), shall concurrently be deemed approved by the board.

B. A school providing training in traditional Chinese acupuncture which has been accorded candidacy status by ACAOM, or its predecessor, NACSCAOM, shall concurrently be deemed conditionally approved by the board, provided that board approval shall be automatically withdrawn if accreditation is not awarded by ACAOM within three years of the date on which candidacy status was recognized.

C. The board may approve additional schools or programs providing training in traditional Chinese acupuncture upon the request of an applicant or application by any such school or program and upon the submission to the board of documentation that such school or program provides training in Chinese acupuncture under standards substantially equivalent to those prescribed by ACAOM for accreditation.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 37:1356-37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:336 (March 1993), amended LR 34:

§2123. List of Approved Schools

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 37:1356-37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:337 (March 1993), repealed LR 34:

Subchapter E. Certification Issuance, Approval of Registration of Supervising Physician or Supervising Acupuncturist's Assistant, Termination, Renewal, Reinstatement

§2125. Issuance of Certification, Approval of Registration

A. If the qualifications, requirements, and procedures specified by this Chapter for an acupuncturist are met to the satisfaction of the board, the board shall certify the applicant as an acupuncturist.

B. If the qualifications, requirements, and procedures specified by this Chapter for an acupuncturist's assistant are met to the satisfaction of the board, the board shall certify the applicant as an acupuncturist's assistant. Issuance of certification to an applicant under this Chapter shall constitute approval of registration of the proposed supervising physician.

C. Each acupuncturist's assistant certificate issued under this Chapter shall be endorsed as Class A or Class B as follows.

1. An acupuncturist's assistant Class A certificate shall be issued to an applicant who qualifies for certification pursuant to §2113.A.5.a or §2113.A.5.c of this Chapter.

2. An acupuncturist's assistant Class B certificate shall be issued to an applicant who qualifies for certification pursuant to §2113.A.5.b of this Chapter. Such certificate shall be further endorsed with the name and location of the hospital, medical school, or clinic at which the applicant is to be employed to perform acupuncture exclusively for research purposes.

D. If the qualifications, requirements, and procedures specified by this Chapter for an acupuncture detoxification specialist are met to the satisfaction of the board, the board shall certify the applicant as an ADS. Issuance of certification to an applicant under this Chapter shall constitute approval of registration of the proposed supervising physician or proposed supervising acupuncturist's assistant.

E. Although a physician must notify the board each time he or she intends to undertake the supervision of an acupuncturist's assistant, registration with the board is only required once. Notification of supervision of a new or additional AcAs by a registered supervising physician shall be deemed given to the board upon the AcA's filing with the board of a notice of intent to practice in accordance with 2127.D of this Chapter.

F. Although a physician or acupuncturist's assistant must notify the board each time he or she intends to undertake the general supervision of an acupuncture detoxification specialist, registration with the board is only required once. Notification of supervision of a new or additional ADSs by a registered supervising physician or AcA shall be deemed given to the board upon the ADS's filing with the board of a notice of intent to practice in accordance with 2127.F of this Chapter.

G. The board shall maintain a list of physicians who are registered to supervise an acupuncturist's assistant and of physicians and AcAs who are registered to supervise an ADS. Each registered physician, registered AcA and ADS is responsible for updating the board within fifteen days should any of the information required and submitted change after the physician has been registered to supervise an AcA or after a physician or AcA has been registered to supervise an ADS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1356-37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:337 (March 1993), amended LR 34:

§2127. Expiration and Termination of Certification; Modification; Notice of Intent

A. Every certification and approval issued by the board under this Chapter shall expire, and become null, void, and to no effect on the last day of the year in which such certification was issued.

B. The timely submission of an application for renewal of certification, as provided by §2129 of this Chapter, shall operate to continue the expiring certification in full force and effect pending issuance or denial of renewal certification.

C. Except as provided in Subsection D of this Section, certification as an acupuncturist's assistant whether an initial certificate or renewal thereof, shall terminate and become void, null and to no effect on and as of any day that:

1. the supervising physician no longer possesses a current, unrestricted license to practice medicine in the state of Louisiana;

2. the supervising physician, whether voluntarily or involuntarily, ceases the active practice of medicine;

3. the relationship between the acupuncturist's assistant and the supervising physician is terminated; or

4. the acupuncturist's assistant's certification expires for failure to timely renew.

D. Certification shall not terminate upon termination of a relationship between a supervising physician and acupuncturist's assistant provided that:

1. the acupuncturist's assistant currently has a supervisory relationship with another supervising physician; alternatively, the acupuncturist's assistant ceases to practice until such time as notification is provided to the board, in a format approved by the board, that he or she has entered into a supervisory relationship with a new supervising physician who satisfies the qualifications, requirements and procedures of this Chapter. Such notification shall be deemed effective as of the date received by the board, subject to final approval at the next board meeting; and

2. the acupuncturist's assistant notifies the board of any changes in or additions to his supervising physicians within 15 days of the date of such change or addition.

E. Except as provided in Subsection F of this Section, certification as an acupuncture detoxification specialist, whether an initial certificate or renewal thereof, shall terminate and become void, null and to no effect on and as of any day that:

1. the supervising physician or supervising acupuncturist's assistant no longer possesses a current, unrestricted license to practice as a physician or as an AcA in the state of Louisiana;

2. the supervising physician or supervising acupuncturist's assistant, whether voluntarily or involuntarily, ceases the active practice of medicine or practice as an AcA;

3. the relationship between the ADS and the supervising physician or the supervising AcA is terminated; or

4. the ADS's certification expires for failure to timely renew.

F. Certification shall not terminate upon termination of a relationship between a supervising physician or supervising AcA and ADS provided that:

1. the ADS currently has a supervisory relationship with another supervising physician or supervising AcA; alternatively, the ADS ceases to practice until such time as notification is provided to the board, in a format approved by the board, that he or she has entered into a supervisory relationship with a new supervising physician or supervising AcA who satisfies the qualifications, requirements and procedures of this Chapter. Such notification shall be deemed effective as of the date received by the board, subject to final approval at the next board meeting; and

2. the ADS notifies the board of any changes in or additions to his supervising physicians or supervising AcAs within 15 days of the date of such change or addition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1356-37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:337 (March 1993), amended LR 34:

§2129. Renewal of Certification; Verification of Registration

A. Every certificate issued by the board under this Chapter shall be renewed annually on or before its date of expiration by submitting to the board a properly completed application for renewal, in a format specified by the board, together with the renewal fee prescribed in Chapter 1 of these rules.

B. An application for renewal of certification shall be transmitted in a format approved by the board to each person holding certification issued under this Chapter on or before the first day of December of each year. Such form shall be transmitted to the primary practice site or preferred mailing address of each certificate holder as reflected in the official records of the board.

C. Each registered supervising physician and supervising acupuncturist's assistant shall annually verify the accuracy of registration information on file with the board in a format approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 37:1356-37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:337 (March 1993), amended LR 34:

Subchapter F. Restricted Licensure, Permits

§2131. Emergency Temporary Permit

A. Acupuncture Detoxification Specialist. The board may issue an emergency temporary permit to an acupuncture detoxification specialist, valid for a period of not more than 60 days, to provide voluntary, gratuitous acu detox services in this state during a public health emergency and for such periods thereafter as the Louisiana Department of Health and Hospitals ("DHH") shall deem the need for emergency services to continue to exist, at sites specified by DHH or approved by the board.

B. To be eligible for issuance of such a permit an individual shall:

1. hold a current, unrestricted license in good standing in another state to practice as an ADS;

2. prior to providing such services, present or cause to be presented to the board:

a. indisputable personal identification;

b. a copy of his or her license to practice as an ADS in another state or such other information as may be deemed satisfactory to the board on which to verify out-of-state licensure;

c. a completed application containing such information as may be required by the board; and

d. notification of intent to practice in a format approved by the board, signed by a physician or an AcA licensed or certified to practice in this state, who will fulfill the functions of a supervising physician or supervising AcA for an ADS as described in this Section. An individual is

responsible for updating the board within 15 days should any of the information required and submitted on the applicant's notice of intent change after a temporary permit has been issued under this Section.

C. To be eligible for approval as a supervising physician or supervising AcA under this Section a physician or AcA shall:

1. possess a current, unrestricted license or certificate to practice as a physician or AcA in Louisiana; and

2. submit a completed application containing such information as may be required by the board.

D. Although a physician or AcA must notify the board each time he or she intends to undertake the supervision of an ADS under this Section, registration with the board is only required once. Notification of supervision of new or additional ADSs by a registered supervising physician or a registered supervising AcA shall be deemed given to the board upon the ADS's filing with the board of a notice of intent to practice in accordance with Subsection B of this Section.

E. The board shall maintain a list of physicians and AcAs who are registered to supervise ADSs under this Section. Each registered supervising physician and supervising AcA is responsible for updating the board should any of the information required and submitted on the physician's or AcA's application change following registration.

F. An ADS holding a permit under this Section shall practice in this state only on a voluntary, gratuitous basis, shall perform only those acupuncture services authorized by this Section, and shall practice only at sites specified by DHH or approved by the board.

G. Services performed by an ADS issued a permit under this Section shall be limited to acu detox and approved by the supervising physician or supervising AcA. Such services may be performed under the general supervision of the supervising physician or supervising AcA. All services shall be documented in written form by the ADS and available for review by the supervising physician or supervising AcA.

H. A temporary permit may be issued upon such terms, conditions, limitations or restrictions as to time, place, nature, and scope of practice as are, in the judgment of the board, deemed necessary or appropriate to its responsibilities under law. The board may, in addition, waive or modify any of the requirements of Chapters 21 and 51 of these rules, applicable to certification as an ADS, that it may deem necessary or appropriate to effectuate the purposes of this Section.

I. An ADS shall visibly display a permit issued under this Section, or such other identifying information as the board may specify, in plain view on his or her person at all times while exercising the privileges of such permit.

J. A temporary permit creates no right or entitlement to certification as an ADS or renewal of the permit after its expiration. A temporary permit shall expire and become null and void on the earlier of:

1. 60 days from the date on which it was issued;
2. a date specified on the permit less than 60 days from the date of issuance;
3. the date the ADS's term of voluntary, gratuitous service is terminated; or

4. the date on which the ADS's relationship with the supervising physician or supervising AcA identified in the notice of intent terminates.

K. The board may, in its discretion, extend or renew for one or two additional 60-day periods a permit that has expired provided that all conditions prerequisite to original issuance are satisfied.

L. Following termination of a declaration of emergency the board may issue, extend or renew a 60-day permit under this Section during such period as DHH shall deem the need for emergency services to continue to exist.

M. Acupuncturist's Assistants. The board may issue an emergency temporary permit to an acupuncturist's assistant to provide voluntary, gratuitous acupuncture services in this state during a public health emergency, and for such periods thereafter as DHH shall deem the need for emergency services to continue to exist, in accordance with §412 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1275, R.S. R.S. 37:1356-37:1360.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 32:2057 (November 2006), amended LR 34:

Subpart 3. Practice

Chapter 51. Acupuncturists, Acupuncturists' Assistants, and Acupuncture Detoxification Specialist

§5101. Scope of Chapter

A. The rules of this Chapter govern the practice of traditional Chinese acupuncture by acupuncturists, and acupuncturists' assistants and of acupuncture detoxification by acupuncture detoxification specialists in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 37:1356-37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:337 (March 1993), amended LR 34:

§5103. Definitions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 37:1356-37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:337 (March 1993), repealed LR 34:

§5105. Necessity of Certification

A. No person may act as or undertake to perform or practice acupuncture or acupuncture detoxification unless he or she holds current certification by the board. While any physician may practice acupuncture, and may apply to the board for registration to supervise an AcA or an ADS, only a physician certified by the board under this Part may hold himself or herself out as a certified acupuncturist.

B. Any person, other than a physician, who acts as or undertakes to perform or practice acupuncture without a current acupuncturist's assistant's certificate issued under this Chapter shall be deemed to be engaging in the unlawful practice of medicine; provided, however, that none of the provisions of this Chapter shall apply to any person employed by, and acting under the supervision and direction of, any commissioned physician of any of the United States Armed Services, Public Health Service or Veterans'

Administration, practicing in the discharge of his or her official duties.

C. Any person, other than a physician or an acupuncturist's assistant, who acts as or undertakes to perform or practice acupuncture detoxification without current certification as an ADS issued under this Chapter shall be deemed to be engaging in the unlawful practice of medicine; provided, however, that none of the provisions of this Chapter shall apply to any person employed by, and acting under the supervision and direction of, any commissioned physician of any of the United States Armed Services, Public Health Service or Veterans' Administration, practicing in the discharge of his official duties.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 37:1356-37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:338 (March 1993), amended LR 34:

§5106. Supervision; Clinical Practice Guidelines or Protocols

A. Acupuncturist's Assistant. Supervision of an AcA shall not be construed to require the physical presence of the supervising physician. Supervision shall exist when the supervising physician gives informed concurrence of the actions of the AcA, whether given prior to or after the action, and when the services of an AcA are:

1. provided when the supervising physician and AcA shall have the capability to be in contact with each other by telephone or other telecommunications device on a regular basis; and

2. performed in accordance with clinical practice guidelines or protocols set forth by the supervising physician and AcA that shall, at a minimum, include:

a. a description of the nature and type of services to be performed by the AcA;

b. the respective responsibilities of the supervising physician and AcA;

c. the methods to be used by the supervising physician to insure responsible direction and control of the activities of the AcA;

d. description of the procedures to be employed by the AcA including, but not limited to, adherence to procedures that shall require the use of disposable needles, proper handling and disposal of needles, and the provisions of universal precautions;

e. the AcA's documentation requirements for each visit which shall, at a minimum, include;

i. the symptoms reported by the patient in his or her words (may be recorded by the patient);

ii. a treatment plan;

iii. informed consent for the services signed by the patient; and

iv. written authority signed by the patient authorizing the supervising physician to review the patient's medical record;

f. a list of conditions and events upon which the AcA is required to notify the supervising physician; provided, however, that should the AcA have need to contact the supervising physician for any reason regarding the care of a particular patient, and the supervising physician is not immediately available, then the service shall not be provided until the supervising physician has been contacted;

g. a predetermined plan to address medical emergencies, after-hours, weekend, and vacation coverage for consultation if needed;

h. the requirements for reporting by the AcA to the supervising physician regarding patient care and the schedule by which such are to take place;

i. an acknowledgment of the mutual obligations and responsibilities of the supervising physician and AcA to comply with all requirements of Section 5111 of this Chapter; and

j. in the event that the AcA serves or intends to serve as a supervising AcA for an ADS such guidelines or protocols shall include any additional instructions or procedures that are to be followed.

B. Acupuncture Detoxification Specialist. General supervision of an ADS shall not be construed to require the physical presence of a supervising physician or supervising acupuncturist's assistant. General supervision shall exist when the services of an ADS:

1. are provided when the supervising physician or supervising AcA and the ADS shall have the capability to be in contact with each other by either telephone or other telecommunications device on a regular basis to address any questions or concerns that may arise from the provision of acu detox; provided, however, that should the ADS have need to contact the supervising physician or supervising AcA for any reason regarding the administration of acu detox to a particular individual, and the supervising physician or supervising AcA is not immediately available, then the acu detox service shall not be provided until the supervising physician or supervising AcA has been contacted;

2. adhere to procedures that shall require the use of disposable needles, proper handling and disposal of needles and the provisions of universal precautions; and

3. are documented in written form by an ADS and made available for review by the supervising physician or supervising AcA. Such documentation shall, at a minimum, include;

a. signed informed consent for the services by the patient; and

b. written authority signed by the patient authorizing the supervising physician or supervising AcA to review the patient's medical record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1356-37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 34:

§5107. Authority and Limitations of Acupuncturist's Assistant and Acupuncture Detoxification Specialist

A. An acupuncturist's assistant shall not:

1. practice without supervision, as defined or provided in this Chapter;

2. perform, provide, attempt to perform or provide, or hold himself or herself out to the public as being capable of performing or providing any procedure, service or function required by law to be performed or provided by one possessing a certificate, registration or license other than as an AcA, in the absence of such certificate, registration or license; or

3. identify himself, or permit any other person to identify him, as "Doctor" or render any service to a patient

unless the acupuncturist's assistant has clearly identified himself as an acupuncturist's assistant by any method reasonably calculated to advise the patient that the acupuncturist's assistant is not a licensed physician.

B. An acupuncturist's assistant holding Class B certification shall not perform or provide, or attempt to perform or provide, any acupuncture procedure, service, or function authorized by certification issued under these rules other than in the course of bona fide scientific research conducted at the direction and under the auspices of his employing hospital, medical school, or clinic.

C. An acupuncture detoxification specialist shall not:

1. practice without general supervision, as defined or provided in this Chapter;

2. perform or provide acu detox other than at the addresses, locations or types of locations identified in his or her current application;

3. perform, provide, attempt to perform or provide, or hold himself or herself out to the public as being capable of performing or providing any procedure, service or function other than acu detox as defined in this Part. The types of services that an ADS shall not provide include, but are not limited to, counseling, nutritional assessments, biofeedback or any other acupuncture, medical or psychological service; or

4. identify himself or herself, or permit any other person to identify him or her, as "doctor" or as "acupuncturist's assistant" or render any service to a patient unless the acupuncture detoxification specialist has clearly identified himself as an acupuncture detoxification specialist by any method reasonably calculated to advise the patient that he or she is not a physician or AcA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1356-37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:338 (March 1993), amended LR 34:

§5109. Authority and Limitations of Supervising Physician and Supervising Acupuncturist's Assistant

A. The supervising physician is responsible for the responsible supervision and direction of the acupuncturist's assistant and retains responsibility to the patient for the competence and performance of the acupuncturist's assistant.

B. A supervising physician shall not concurrently supervise, or be approved to supervise, more than five acupuncturist's assistants.

C. The supervising physician or supervising acupuncturist's assistant is responsible for providing general supervision of the ADS and retains responsibility to the patient for the competence and performance of the ADS.

D. Except as may be applicable to a temporary permit issued under Section 2131 of these rules, a supervising physician or a supervising acupuncturist's assistant shall not concurrently supervise, or be approved to supervise, more than five ADSs.

E. The board may, in its discretion, grant an exception to the limitations provided in this Section on a case-by-case basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1356-37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:338 (March 1993), amended LR 34:

§5111. Mutual Obligations and Responsibilities

A. The acupuncturist's assistant and supervising physician shall:

1. immediately notify the board, in writing, of:

a. the termination of the acupuncturist's assistant's supervisory relationship with the supervising physician;

b. the retirement or withdrawal from active practice by the supervising physician or AcA; and

c. any change in the functions, activities, or services of the acupuncturist's assistant or the location of their performance;

2. comply with reasonable requests by the board for personal appearances, information and documentation required by this Part relative to the functions, activities, and performance of the acupuncturist's assistant and/or supervising physician;

3. insure that each individual to whom the acupuncturist's assistant provides patient services is expressly advised and understands that the acupuncturist's assistant is not a physician;

4. insure that, with respect to each patient, all activities, functions, services, and treatment measures of the acupuncturist's assistant are immediately and properly documented in written form by the acupuncturist's assistant; and

5. insure that in those instances where an AcA has a primary practice site that is different from that of the supervising physician that:

a. the supervising physician shall review a random sample of the lesser of 10 percent or 20 of the AcA's records on a quarterly basis; and

b. the AcA shall maintain at his or her primary practice site, a list of records reviewed by the supervising physician reflecting the date that such records were reviewed and the signature of the supervising physician. Such list shall be kept in chronologically order and maintained by the AcA for no less than five years.

B. The acupuncturist's assistant and the supervising physician shall bear equal and reciprocal obligations to insure strict compliance with the obligations, responsibilities, and provisions set forth in the rules of this Part.

C. The ADS, supervising physician or supervising acupuncturist's assistant shall:

1. immediately notify the board, in writing, of:

a. the retirement or withdrawal from active practice by the supervising physician or supervising AcA; and

b. any other change in the activities, or services of the ADS or the location or types of locations of their performance;

2. comply with reasonable requests by the board for personal appearances and/or information and documentation required by this Part relative to the functions, activities, and performance of the ADS and supervising physician or supervising AcA;

3. insure that each individual to whom an ADS provides patient services is expressly advised and understands that the ADS is not a physician or an AcA; and

4. insure that, with respect to each patient, all activities, functions and services of the ADS are immediately and properly documented in written form by the ADS.

D. The ADS and the supervising physician or supervising AcA shall bear equal and reciprocal obligations to insure strict compliance with the obligations, responsibilities, and provisions set forth in the rules of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1356-37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:338 (March 1993), amended LR 34:

§5113. Causes for Action; Suspension, Revocation, Imposition of Restrictions

A. The board may suspend, revoke, or impose probationary conditions and restrictions on the certification of any acupuncturist, acupuncturist's assistant or acupuncture detoxification specialist, and/or upon the license of a supervising physician or supervising AcA, upon a finding, following hearing, that such individual is culpable of:

1. conviction of a crime or entry of a plea of guilty or nolo contendere to a criminal charge constituting a felony under the laws of the Louisiana, of the United States, or of the state in which such conviction or plea was entered;

2. conviction of a crime or entry of a plea of guilty or nolo contendere to any criminal charge arising out of or in connection with the practice of acupuncture or acupuncture detoxification;

3. perjury, fraud, deceit, misrepresentation, or concealment of material facts in obtaining a certificate to practice acupuncture or acupuncture detoxification;

4. providing false testimony before the board or providing false sworn information to the board;

5. habitual or recurring abuse of drugs, including alcohol, which affect the central nervous system and which are capable of inducing physiological or psychological dependence;

6. solicitation of patients or self-promotion through advertising or communication, public or private, which is fraudulent, false, deceptive, or misleading;

7. making or submitting false, deceptive, or unfounded claims, reports, or opinions to any patient, insurance company, or indemnity association, company, individual, or governmental authority for the purpose of obtaining anything of economic value;

8. cognitive or clinical incompetency;

9. continuing or recurring practice which fails to satisfy the prevailing and usually accepted standards of acupuncture or acupuncture detoxification practice in this state;

10. knowingly performing any act which in any way assists an uncertified person to practice acupuncture or acupuncture detoxification, or having professional connection with or lending one's name to an illegal practitioner;

11. paying or giving anything of economic value to another person, firm, or corporation to induce the referral of patients to the acupuncturist, acupuncturist's assistant or acupuncture detoxification specialist;

12. interdiction by due process of law;

13. inability to practice acupuncture or acupuncture detoxification with reasonable competence, skill, or safety to

patients because of mental or physical illness, condition, or deficiency, including but not limited to deterioration through the aging process or excessive use or abuse of drugs, including alcohol;

14. refusal to submit to examination and inquiry by an examining committee of physicians appointed by the board to inquire into the certificate holder's physical and/or mental fitness and ability to practice acupuncture or acupuncture detoxification with reasonable skill or safety to patients;

15. practicing or otherwise engaging in any conduct or functions beyond the scope of acupuncture or acupuncture detoxification as defined by the Acupuncture Practice Act or these rules;

16. the refusal of the licensing authority of another state to issue or renew a license, permit, or certificate to practice acupuncture or acupuncture detoxification in that state, or the revocation, suspension, or other restriction imposed on a license, permit, or certificate issued by such licensing authority which prevents, restricts, or conditions practice in that state, or the surrender of a license, permit, or certificate issued by another state when criminal or administrative charges are pending or threatened against the holder of such license, permit, or certificate; or

17. violation of any rules and regulations of the board, or any provisions of the Act, as amended, R.S. 37:1356-1360.

B. The board may, as a probationary condition, or as a condition of the reinstatement of any certificate suspended or revoked hereunder, require the acupuncturist, acupuncturist's assistant or acupuncture detoxification specialist to pay all costs of the board proceedings, including investigators', stenographers', and attorneys' fees; and, with respect to an acupuncturist or acupuncturist's assistant, to pay a fine not to exceed the sum of \$5,000.

C. Any certificate suspended, revoked, or otherwise restricted by the board may be reinstated by the board, provided, however, that no application may be made to the board for reinstatement of a revoked certificate until not less than one year has elapsed from the date of the revocation. The board shall have discretion to accept or reject any application for reinstatement.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 37:1356-37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1113 (October 1994), amended LR 34:

§5115. Appendix—Approved Acupuncture Training Schools

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:338 (March 1993), repealed LR 34:

Family Impact Statement

The proposed rules and amendments have no known impact on family, formation, stability or autonomy, as described in R.S. 49:972.

Interested persons may submit written data, views, arguments, information or comments on the proposed rules and amendments to Rita Arceneaux, Confidential Executive Assistant, Louisiana State Board of Medical Examiners, at Post Office Box 30250, New Orleans, LA, 70190-0250 (630

Camp Street, New Orleans, LA, 70130), (504) 568-6820, Ex. 242. She is responsible for responding to inquiries on the proposed rules and amendments. Written comments will be accepted until 4:00 p.m., May 19, 2008. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument or public hearing must be made in writing and received by the Board within 20 days of the date of this notice.

Robert L. Marier, M.D.
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Acupuncturists, Acupuncturist's Assistants, Acupuncture Detoxification Specialists—General, Certification and Practice

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

Other than notice and rule publication costs estimated at a combined total of \$1,836, which costs will be absorbed within the board's budget during FY 2008, it is not anticipated that the proposed rules and amendments will result in any additional costs or savings to the board or any other state or local governmental unit.

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

Implementation of the proposed rules will generate additional fees of \$50 for issuance of initial certification to acupuncture detoxification specialists (ADS), and \$25 for annual certification renewal. There is no known available data respecting the number of individuals who may seek ADS certification. Based on the projections of those soliciting training and information from the board it is estimated that at least 30 applicants will seek initial certification in each of the next three years, thereby resulting in additional revenues for combined initial/renewal certification of \$1,500 (30 initial) for FY 2008, \$2,250 (30 initial plus 30 renewal) for FY 2009, and \$3,000 (30 initial plus 60 renewal) for FY 2010.

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

In conformity with Act 452 of the 2007 Session of the Louisiana Legislature, R.S.37: 1356, 1357.1, and 1358, the board proposes to adopt rules governing certification and practice of a new category of practitioners, acupuncture detoxification specialists (ADS), to amend its existing rules and delete the requirement that supervising physicians must employ acupuncturist's assistants (AcA), and to make other modifications consistent with or necessitated by the statutory amendments. It is anticipated that the proposed rules and amendments will result in an unquantifiable reduction in workload and paperwork of all applicants by eliminating the need to present certain original documents, facilitating the use of technology for processing forms and applications, and for other purposes specified in the proposed rules. To an extent not quantifiable, AcAs and supervising physicians will receive an economic benefit by being relieved of costs and paperwork formerly attributable to establishing and maintaining an employment relationship, and all applicants will receive an economic benefit in time and costs otherwise attributable to submitting notarized applications, which will no longer be required. Implementation of the proposed rules will result in an unknown economic impact in receipts or income to those who are certified and practice as an ADS. The proposed rule amendments also may, to an extent that is not quantifiable, serve to increase receipts and/or income of ACAs.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that the proposed rules and amendments will have any material impact on competition or employment in either the public or private sector.

Robert Marier, M.D.
Executive Director
0804#058

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Pharmacy

Pharmacies
(LAC 46:LIII.1107 and 1727)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Louisiana Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy hereby gives notice of its intent to amend an existing Section of its rules and to promulgate a new Section: §1107 to require all pharmacies to operate a minimum of 10 hours per week, and a new Section, §1727 to allow the donation of previously dispensed but unused prescription medications to certain pharmacies located in penal institutions.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIII. Pharmacists

Chapter 11. Pharmacies

Subchapter A. General Requirements

§1107. Pharmacy Operation

A. A pharmacist shall be on duty at all times during regular open hours of the pharmacy.

B. A pharmacy shall be open for business a minimum of 10 hours per week, with said business hours posted at the building entrance in full public view from outside the premises.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1310 (October 1997), amended LR 29:2088 (October 2003), effective January 1, 2004, LR 34:

Chapter 17. Institutional Pharmacy

Subchapter D. Drug Donations to Pharmacies in Penal Institutions

§1727. Medication Transfers

A. In facilities licensed by the Department of Health and Hospitals where United States Pharmacopeia (USP) storage requirements can be assured, prescription drugs, except controlled dangerous substances, dispensed in unit dose or in individually sealed doses may be transferred to a permitted institutional pharmacy located within a penal institution operated under the authority of the Department of Public Safety and Corrections for re-labeling and dispensing to that penal institution's patients, free of charge, pursuant to a valid prescription order.

1. The pharmacist-in-charge of the institutional pharmacy located within a penal institution shall be

responsible for determination of suitability of the product for reuse.

a. No product where integrity cannot be assured shall be accepted for re-dispensing by the pharmacist.

b. A re-dispensed prescription medication shall be assigned the expiration date stated on the package.

c. No product shall be re-dispensed more than one time.

2. Pursuant to a voluntary agreement between the facility licensed by the Department of Health and Hospitals and an institutional pharmacy located within a penal institution operated under the authority of the Department of Public Safety and Corrections, prescription drugs, except controlled substances, may be transferred from the facility to the pharmacy provided the following procedures are satisfied.

a. The physical transfer shall be accomplished by an individual authorized to do so by the institutional pharmacy located within a penal institution.

b. The patient from whom the prescription medication was obtained shall document their consent for the donation; the consent shall be maintained on file in the facility.

c. The patient's name, prescription number, and any other identifying marks, shall be obliterated from the packaging prior to removal from the facility.

d. The drug name, strength, and expiration date shall remain on the medication package or label.

e. An inventory list of the drugs shall accompany the drugs being transferred. The list shall contain, at a minimum, the medication name, strength, quantity, and expiration date.

f. Expired drugs shall not be transferred. In the event expired drugs are received by an institutional pharmacy located within a penal institution, the pharmacist-in-charge shall destroy them as required by law.

B. Under no circumstances may these transferred medications be re-distributed to another location.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 34:

Family Impact Statement

In compliance with Act No. 1183 of the 1999 Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule has no known impact on family functioning, stability, autonomy, or on the ability of the family to educate and supervise their children, as described in R.S. 49:972.

Interested persons may submit written comments to Malcolm J Broussard, Executive Director, Louisiana Board of Pharmacy, 5615 Corporate Blvd., 8th Floor, Baton Rouge, LA 70808-2537. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Wednesday, May 28, 2008, at 9 a.m. in the board office. At that time, all interested persons will be afforded an opportunity to submit data, views, or arguments, either orally or in writing. The deadline for the receipt of all comments is 12 noon that same day.

Malcolm J Broussard
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Pharmacies

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

It is estimated that implementation of the proposed rule will cost the agency \$250 in FY 07-08 and \$250 in FY 08-09 for printing costs associated with the publication of the notice of intent and the final rule in the Louisiana Register.

The Board proposes to promulgate a new rule pursuant to Act 797 of the 2006 Regular Session of the Legislature that would permit pharmacies located within penal institutions operated under the authority of the Dept. of Public Safety & Corrections to accept donations of previously dispensed but unused prescription drugs from certain sources. However, any potential cost avoidance for the state penal institution pharmacies is unquantifiable as the number and quantity of donated medications is not predictable.

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

We can discern no measurable impact on revenue collections for state or local governmental units, including the Board.

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

The Board proposes to amend current rules to require all pharmacies to be open for business no less than ten hours per week and that their business hours be posted in public view. While those few pharmacies operating less than ten hours per week may be required to increase their operating costs to achieve the new requirement for ten hours per week, they may offset some of those costs with increased sales.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

To the extent that some pharmacies may need to increase their staffing patterns to achieve at least ten hours per week of coverage, there may be a nominal increase in pharmacist employment opportunities.

Malcolm J. Broussard
Executive Director
0804#026

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Pharmacy

Pharmacy Interns
(LAC 46:LIII.521 and 705)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Louisiana Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy hereby gives notice of its intent to amend two Sections of its rules: §521 to allow certain pharmacy interns to administer medications, and §705 to reallocate the hours of practical experience required of pharmacy interns to qualify for pharmacist licensure

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part LIII. Pharmacists

Chapter 5. Pharmacists

Subchapter B. Professional Practice Procedures

§521. Prescription Orders to Administer Medications

A. - F.9. ...

G. A pharmacist certified to administer medications may train a pharmacy intern to administer medication, provided the pharmacy intern meets the same educational requirements and minimum standards identified in Paragraph D.2 and Subsection E of this Section. The intern shall be under the direct and immediate supervision of the certified pharmacist at all times during such training activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2085 (October 2003), effective January 1, 2004, LR 34:

Chapter 7. Pharmacy Interns

§705. Practical Experience

A. - B.2. ...

C. Practical Experience Hours. To qualify for pharmacist licensure, an intern shall supply evidence of the acquisition of at least 1,500 hours of practical experience.

1. The board shall award 1,000 hours credit to an intern for his successful completion of a professional experience curriculum at a board-approved college of pharmacy. The dean of the board-approved college of pharmacy shall certify the completion of this requirement in the manner prescribed by the board office.

2. The intern shall earn at least 500 hours of practical experience in a permitted pharmacy site under the supervision of a pharmacist with no less than two years of experience as a licensed pharmacist. Further, neither the pharmacist's license nor the pharmacy's permit may be on probation with the board at the time the practical experience is earned.

3. Practical experience hours that are submitted to the board for credit consideration shall be listed on an affidavit form supplied by the board office, and signed by the pharmacist and pharmacy intern.

a. A pharmacy intern may receive credit for a maximum of 50 hours per week.

b. A separate affidavit shall be required from each permitted pharmacy site.

c. No credit shall be awarded for hours earned within the professional experience curriculum of a board-approved college of pharmacy, nor for hours earned outside the professional experience curriculum but at the same time and location as hours earned for that professional experience curriculum.

4. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1211.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:2285 (October 2000), amended LR 29:2086 (October 2003), effective January 1, 2004, LR 32:636 (April 2006), LR 32:2256 (December 2006), LR 33:1130 (June 2007), LR 34:

Family Impact Statement

In compliance with Act No. 1183 of the 1999 Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule has no known impact on family functioning, stability, autonomy, or on the ability of the family to educate and supervise their children, as described in R.S. 49:972.

Interested persons may submit written comments to Malcolm J Broussard, Executive Director, Louisiana Board of Pharmacy, 5615 Corporate Blvd., 8th Floor, Baton Rouge, LA 70808-2537. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Wednesday, May 28, 2008 at 9 a.m. in the board office. At that time, all interested persons will be afforded an opportunity to submit data, views, or arguments, either orally or in writing. The deadline for the receipt of all comments is 12 noon that same day.

Malcolm J Broussard
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Pharmacy Interns

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

It is estimated that implementation of the proposed rule will cost the agency \$250 in FY 07-08 and \$250 in FY 08-09 for printing costs associated with the publication of the notice of intent and the final rule in the Louisiana Register.

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

We can discern no measurable impact on revenue collections for state or local governmental units, including the Board.

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

The Board proposes to amend current rules relative to the experiential requirement for pharmacist licensure by changing the allocation of the hours of practical experience. The proposed amendment will allow approximately 1,100 pharmacy interns to complete their practical experience requirements for pharmacist licensure earlier than now possible as the rule change would allow 500 hours of the required 1,500 hours to be earned at any time prior to pharmacist licensure. As such these persons could increase their level of income earlier than before. Additionally, the Board proposes to amend current rules to allow certain pharmacy interns (approximately 50) to administer medications, but only after they have met the same educational requirements and minimum standards required of pharmacists certified to engage in that practice, and only when supervised by pharmacists certified to engage in that practice.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

To the extent that certain pharmacy interns could complete their practical experience requirements for pharmacist licensure earlier than now possible, the proposed rule could have a positive effect on the supply of pharmacists available for employment in this state.

Malcolm J. Broussard
Executive Director
0804#027

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Medicaid Eligibility—Spousal Impoverishment Provisions and Nursing Facility Private-Pay Rate (LAC 50:III.16101)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt LAC 50:III.16101 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions governing spousal impoverishment criteria in the Medicaid Program for institutionalized individuals to allocate resources to a legal spouse and dependents living in the community (*Louisiana Register*, Volume 16, Number 3). The department amended the March 20, 1990, Rule by promulgating the *Medicaid Eligibility Manual* in its entirety by reference in May of 1996 (*Louisiana Register*, Volume 23, Number 5). Section I of the *Medicaid Eligibility Manual* addresses the eligibility factors considered in the determination of eligibility, including spousal impoverishment provisions.

The Deficit Reduction Act (DRA) Of 2005 amended §§1917 and 1924 of the Social Security Act concerning the treatment of assets, asset transfers and the treatment of income and resources for individuals and their spouses who apply for or receive long-term care services covered under the Medicaid Program. In compliance with the DRA provisions, the department promulgated an Emergency Rule to repeal and replace the March 20, 1990, Rule and the provisions of Section I of the *Medicaid Eligibility Manual* governing spousal impoverishment which was promulgated in the May 20, 1996, Rule (*Louisiana Register*, Volume 34, Number 1). This Emergency Rule also adopted provisions establishing the statewide average, monthly nursing facility private-pay rate used in the calculation of periods of ineligibility for long-term care services. This proposed Rule is being promulgated to continue the provisions of the January 15, 2008 Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part III. Eligibility

Subpart 9. Long-Term Care Eligibility

Chapter 161. General Provisions

§16101. Spousal Impoverishment

A. Spousal impoverishment provisions assure that the needs of an institutionalized individual's legal spouse and/or dependents that reside in the community continue to be met.

B. Spousal impoverishment resource provisions allow certain long term care applicants/recipients residing in a medical institution for a continuous period of

institutionalization or home and community-based services waiver applicants/recipients to allocate resources to a legal spouse (referred to as the community spouse) who lives in a non-institutionalized living arrangement for the community spouse's own use and maintenance.

1. Exception. The spousal impoverishment provisions do not apply to individuals residing in a group home.

C. The income first rule shall apply to spousal impoverishment. Under these provisions, all of the income of the institutionalized spouse that can be made available to the community spouse will be made available to bring the spouse up to the Minimum Monthly Needs Allowance.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§16103. Nursing Facility Private-Pay Cost

A. The department uses a statewide average, monthly private-pay nursing facility cost amount to calculate the periods of ineligibility for long-term care services when uncompensated transfers of assets occur. The average, monthly private-pay nursing facility cost amount shall be determined by the bureau.

1. The amount will be reviewed annually to ensure that it remains aligned with private-pay costs.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning and autonomy as described in R.S. 49:942 by assuring that the needs of the institutionalized individual's family are considered when nursing facility placement is necessary.

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

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, May 29, 2008, at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Alan Levine
Secretary

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

**RULE TITLE: Medicaid Eligibility—Spousal
Impoverishment Provisions and Nursing
Facility Private-Pay Rate**

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

It is anticipated that the implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 07-08. It is anticipated that \$340 (\$170 SGF and \$170 FED) will be expended in FY 07-08 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections other than the federal share of the promulgation costs for FY 07-08. It is anticipated that \$170 will be collected in FY 07-08 for the federal share of the expense for promulgation of this proposed rule and the final rule.

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

This rule, which continues the provisions of the January 15, 2008 emergency rule, proposes to repeal and replace the provisions governing spousal impoverishment and to establish the statewide average, monthly nursing facility private-pay rate which is used as a basis for establishing patient liability during the nursing facility eligibility determination process. It is anticipated that implementation of this proposed rule will not have an estimable cost or economic benefits for nursing facility residents in FY 07-08, FY 08-09 and FY 09-10.

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

It is anticipated that the implementation of this rule will have no effect on competition and employment.

Jerry Phillips
Medicaid Director
0804#085

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

**Medicaid Eligibility—SSI-Related Resources
(LAC 50:III.10717)**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt LAC 50:III.10717 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule promulgating the *Medicaid Eligibility Manual* in its entirety by reference in May of 1996 (*Louisiana Register*, Volume 23, Number 5). Section I of the *Medicaid Eligibility Manual* addresses the eligibility factors considered in the

determination of eligibility, including Supplemental Security Income (SSI) related resources.

The Omnibus Budget Reconciliation Act (OBRA) of 1993 established provisions governing the transfer of assets, trusts and annuities considered in the determination of Medicaid eligibility. In compliance with OBRA of 1993, the department amended the provisions of Section I of the *Medicaid Eligibility Manual* to clarify the treatment of annuities (*Louisiana Register*, Volume 29, Number 12).

The Deficit Reduction Act (DRA) of 2005 amended §§1917 and 1924 of the Social Security Act concerning the treatment of assets, asset transfers and the treatment of income and resources for individuals and their spouses who apply for or receive long-term care services covered under the Medicaid Program. In compliance with the DRA provisions, the department promulgated an Emergency Rule to repeal and replace the provisions of Section I of the *Medicaid Eligibility Manual* governing the treatment of certain SSI-Related resources which were promulgated in the May 20, 1996, Rule, and to repeal and replace the December 20, 2003, August 20, 2005, and the July 20, 2006, Rules (*Louisiana Register*, Volume 34, Number 1). In addition, the January 15, 2008, Emergency Rule adopted provisions governing the treatment of continuing care retirement communities, substantial home equity and life estates. The January 15, 2008, Emergency Rule was subsequently amended to further clarify the provisions governing the treatment of life estates (*Louisiana Register*, Volume 34, Number 4). This proposed Rule is being promulgated to continue the provisions of the April 20, 2008, Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part III. Eligibility

Subpart 5. Financial Eligibility

Chapter 107. Resources

§10717. Types of SSI-Related Resources

A. The following SSI-related resources are considered in determining eligibility for Medicaid coverage.

1. Annuities

a. Any annuity purchases must adhere to the following requirements or the annuity will be considered an available countable resource.

i. The annuity must contain a statement that names the state of Louisiana as the remainder beneficiary in the first position for the total amount of Medicaid assistance paid on behalf of the annuitant unless there is a community spouse and/or a minor or disabled child.

ii. If there is a community spouse and/or a minor or disabled child, the state may be named in the next position after those individuals. If the state has been named after a community spouse and/or minor or disabled child and any of those individuals or their representatives dispose of any of the remainder of the annuity for less than fair market value, the state may then be named in the first position.

iii. If the state is not named as a remainder beneficiary in the correct position, the purchase of the annuity will be considered a transfer for less than fair market value. The full purchase value of the annuity will be considered the amount transferred.

b. In addition to purchases of annuities, certain related transactions which occur to annuities are subject to

these provisions. If any action taken by the individual changes the course of payment to be made by the annuity, then the treatment of the income or principal of the annuity is subject to these provisions. This includes additions of principal, elective withdrawals, requests to change the distribution of the annuity, elections to annuitize the contract and similar actions taken by the individual.

i. Routine changes and automatic events that do not require any action or decision after the effective date of the enactment are not considered transactions that would subject the annuity to treatment under these provisions.

c. Refusal to disclose sufficient information related to any annuity will result in denial or termination of Medicaid based on the applicant's failure to cooperate. When an unreported annuity is discovered after eligibility has been established and after payment for long-term care services has been made, appropriate steps to terminate payment for services will be taken, including appropriate notice to the individual of the adverse action.

d. Annuities purchased by or on behalf of an annuitant who has applied for medical assistance will not be treated as a transfer of assets if the annuity meets any of the following conditions:

i. the annuity is considered to be:
(a). an individual retirement annuity; or
(b). a deemed individual retirement account (IRA) under a qualified employer plan; or

ii. the annuity is purchased with proceeds from one of the following:

(a). a traditional IRA;
(b). certain accounts or trusts which are treated as IRAs;

(c). a simplified retirement account; or
(d). a simplified employee pension; or

iii. the annuity:

(a). is irrevocable and non-assignable;
(b). is actuarially sound; and

(c). provides payments in approximately equal amounts with no deferred or balloon payments.

e. Applicants or their authorized representatives shall be responsible for providing documentation from the financial institution verifying qualifying IRS annuities. Absent such documentation, the purchase of the annuity will be considered a transfer for less than fair market value which is subject to penalty. The full purchase value of the annuity will be considered the amount transferred.

f. If an annuity or the income stream from an annuity is transferred, except to or for the spouse's sole benefit, to their child or a trust, the transfer may be subject to penalty.

2. Continuing Care Retirement Community Entrance Fees

a. Continuing care retirement communities (CCRC's) are entities which provide a range of living arrangements from independent living through skilled nursing care. An entrance contract for admission to a continuing care retirement center or life care community must take into account the required allocation of resources or income to the community spouse before determining the amount of resources that a resident must spend on his or her own care.

b. A CCRC entrance fee shall be treated as a resource for the purposes of determining Medicaid eligibility under the following conditions if the entrance fee:

i. can be used to pay for care under the terms of the entrance contract should other resources of the individual be insufficient;

NOTE: It is not necessary for CCRC's or life care communities to provide a full, lump-sum refund of the entrance fee to the resident. If portions of the fee can be refunded or applied to pay for care as required, this condition would be met.

ii. or a remaining portion is refundable when the individual dies or terminates the contract and leaves the CCRC or life care community; and

NOTE: It is not necessary for the resident to actually receive a refund of the entrance fee for deposit. This condition is met as long as the resident could receive a refund were the contract to be terminated, or if the resident dies.

iii. does not confer an ownership interest in the community.

3. Life Estates

a. The purchase of a life estate in another individual's home is considered a countable resource and subject to examination under transfer of asset provisions unless the purchaser resides in the home for a period of at least one year after the date of purchase.

b. The life estate value will be determined using the life estate tables published by the Social Security Administration for the SSI program.

c. For transfer of assets determinations, the amount of the transfer is the entire amount used to purchase the life estate.

i. The amount shall not be reduced or prorated to reflect an individual's residency for a period of time less than one year.

d. If payment for a life estate exceeds the fair market value (FMV) of the life estate, the difference between the amount paid and the FMV will be treated as a transfer of assets.

e. If an individual makes a gift or transfer of a life estate, the value of the life estate will be treated as a transfer of assets.

f. These provisions apply only to the purchase of life estates. They do not apply in situations where an individual transfers real property but retains the life estate and the value of the remainder interest (not the life estate) is used to determine whether a transfer has occurred and to calculate the period of ineligibility.

g. For the purposes of determining eligibility for Medicaid coverage, the terms "life estate" and "usufruct" have the same meaning.

4. Loans, Mortgages, Promissory Notes and Other Property Agreements

a. Countable assets include funds used to purchase a promissory note, or funds used to make a loan or mortgage. These resources are subject to transfer of assets provisions unless the repayment terms are actuarially sound.

b. Loans, mortgages, promissory notes, property agreements or property assignments are countable resources regardless of any non-assignability, non-negotiability or non-transferability provisions contained therein.

c. Instruments containing any of the following provisions are a countable resource and shall be evaluated as a transfer of assets:

- i. repayment terms that exceed the holder's life expectancy;
 - ii. provisions for interest only payments or principal payments that are not to be made in equal amounts during the term of the loan;
 - iii. deferral or balloon payments; or
 - iv. cancellation or forgiveness clauses that cancel the balance upon some occurrence such as death of the lender.
- d. If there is evidence that there is not a good faith agreement to repay the entire principal of a note, loan or mortgage, the instrument shall not be considered bona fide and shall be evaluated as a transfer of resources.

5. Substantial Home Equity

a. Substantial home equity above the state's established limit is a countable resource which causes ineligibility for long-term care services. If an individual's equity interest in their home exceeds \$500,000, that individual is not eligible for Medicaid payment of nursing facility services or other long-term care services.

b. Home equity limitations do not apply if the individual's spouse, the individual's child under the age of 21, or the individual's blind or disabled child is residing in the home.

i. A child is considered disabled if he or she meets the definition of disability as defined by Section 1614(a)(3) of the Social Security Act.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning and autonomy as described in R.S. 49:942.

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

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, May 29, 2008, at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Alan Levine
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Medicaid Eligibility
SSI-Related Resources**

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

It is anticipated that the implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 07-08. It is anticipated that \$748 (\$374 SGF and \$374 FED) will be expended in FY 07-08 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections other than the federal share of the promulgation costs for FY 07-08. It is anticipated that \$374 will be collected in FY 07-08 for the federal share of the expense for promulgation of this proposed rule and the final rule.

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

This rule, which continues the provisions of the April 20, 2008, Emergency Rule, proposes to repeal and replace the provisions governing certain SSI-Related resources and adopts provisions governing the treatment of continuing care retirement communities, substantial home equity and life estates. It is anticipated that implementation of this proposed rule will not have an estimable cost or economic benefits for directly affected persons or non-governmental groups in FY 07-08, FY 08-09 and FY 09-10.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this rule will have no effect on competition and employment.

Jerry Phillips
Medicaid Director
0804#084

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Medicaid Eligibility—Transfers of Assets
(LAC 50:III.Chapter 109)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt LAC 50:III.Chapter 109 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Human Resources, Office of Family Security, adopted provisions governing the transfer of resources for less than the fair market value (FMV) (*Louisiana Register*, Volume 9, Number 6). The Department of Health and Hospitals, Office of the Secretary,

Bureau of Health Services Financing amended the July 1, 1983, Rule to comply with the provisions of §§3250-3255 of the State Medicaid Manual governing the transfer of assets (*Louisiana Register*, Volume 16, Number 3). In April 1994, the department amended the March 20, 1990, Rule to extend the look-back period for potential transfers and to clarify the provisions governing transfer of assets. The department subsequently adopted a Rule promulgating the *Medicaid Eligibility Manual* in its entirety by reference in May of 1996 (*Louisiana Register*, Volume 23, Number 5). Section I of the *Medicaid Eligibility Manual* addresses the eligibility factors considered in the determination of eligibility, including transfers of assets.

The Deficit Reduction Act (DRA) of 2005 amended §§1917 and 1924 of the Social Security Act concerning the treatment of assets, asset transfers and the treatment of income and resources for individuals and their spouses who apply for or receive long-term care services covered under the Medicaid Program. In compliance with the DRA provisions, the department promulgated an Emergency Rule to amend the provisions governing the transfer of assets (*Louisiana Register*, Volume 34, Number 1). The January 15, 2008, Emergency Rule was subsequently amended to further clarify the provisions governing undue hardships (*Louisiana Register*, Volume 34, Number 4). This proposed Rule is being promulgated to continue the provisions of the April 20, 2008, Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part III. Eligibility

Subpart 5. Financial Eligibility

Chapter 109. Transfers of Assets

§10905. Transfers

A. The Deficit Reduction Act of 2005 established new provisions governing the treatment of transfers of assets for individuals and their spouses who apply for or receive long-term care services.

B. The look-back period is lengthened to five years for potential transfers of assets.

C. For transfers for less than fair market value, the period of ineligibility for long-term care vendor payment is the latter of the first day of the month after which the asset was transferred or the date on which the individual is eligible for long term care Medicaid assistance (but for the penalty being applied).

1. The penalty is a period of ineligibility for receiving long-term care vendor payments as a result of a transfer of income or assets or both.

2. Periods of ineligibility cannot occur during any other period of ineligibility; they must be consecutive and not concurrent.

D. For transfers for less than fair market value, the penalty period for home and community-based services (HCBS) waiver recipients begins with the later of the month during which assets have been transferred or the date the individual is ineligible for Medicaid long-term care assistance and is receiving long-term care services (nursing facility and ICF/MR or HCBS services) that would be covered by Medicaid, except for imposition of the penalty.

E. Partial Month Transfers. The department shall impose penalties for transfers in a month that are less than the state's

average monthly cost to a private patient of nursing facility services in the state.

F. Combining Multiple Transfers Made in More Than One Month. These provisions refer to more than one transfer during the look-back period where each transfer results in less than a full month of eligibility.

1. The department shall combine multiple transfers for less than fair market value in more than one month and impose a single period of ineligibility or apply multiple penalty periods.

a. If the department imposes a single period of ineligibility, all transfers will be added together and a single continuous period of eligibility will be imposed. Otherwise, a separate period of ineligibility shall be calculated for each month and the resulting periods of eligibility shall be imposed separately.

G. Undue Hardship. The department shall provide for an undue hardship waiver when application of the transfer of assets provision would deprive the individual of medical care such that the individual's health, life or other necessities of life would be endangered.

1. An undue hardship exception is when a penalty will not be imposed against the applicant/enrollee, either in whole or in part, after findings that an undue hardship exists.

a. Undue hardship provisions shall permit the facility in which the individual is residing to file an undue hardship waiver application on his behalf with the consent of the individual or the personal representative of the individual.

b. Bed hold payments shall not be made while an application for an undue hardship waiver is pending.

c. The community spouse is not protected by the hardship exception. The exception is for the applicant/enrollee not to be deprived.

2. Undue hardship does not exist:

a. when the application of the transfer of assets provisions merely causes the individual inconvenience or when such application might restrict his or her lifestyle but would not put him/her at risk of serious deprivation; and

b. when property is transferred to one or more of the following:

- i. blood relatives to a third degree cousin;
- ii. mother-in-law;
- iii. father-in-law;
- iv. brother-in-law; or
- v. sister-in-law;

c. if the individual who transferred the assets or income, or on whose behalf the assets or income were transferred, has not exhausted all lawful means to recover the assets or income or the value of the transferred assets or income; or

d. if the applicant/enrollee's health or age indicated a need for long term care services was predictable at the time of the transfer.

3. The applicant/recipient shall be advised in writing of the decision made on the undue hardship exception request.

4. Determining Undue Hardship. Once a period of ineligibility has been established because of a transfer of assets or income for less than fair market value, or the equity value in the home, an applicant/enrollee may apply for an undue hardship exception.

a. An undue hardship exception request must be made within seven days from the date of notification of the penalty. Documentation supporting the request for the exception of undue hardship must be provided. The department may extend the request periods if it determines that extenuating circumstances require additional time.

b. When undue hardship requests are made for the first time, individuals challenging the penalty must raise all claims and submit all evidence permitting consideration of undue hardship. The individual has to have taken action in law and equity to get the asset back before the department can consider undue hardship.

c. Once the department determines that it has received complete documentation, it shall inform the individual within 10 business days of the undue hardship decision.

d. If no request for undue hardship is received within seven days after notification of a transfer penalty, or if the request is denied, the department shall issue an eligibility determination specifying the applicable penalty period.

i. If the individual is a recipient, the notice shall include the termination date of Medicaid eligibility for long-term care services.

ii. The notice shall also include the right to request a fair hearing and continuing benefits.

5. If an undue hardship exception is denied, the applicant has the right to appeal the denial decision.

6. An undue hardship exception may be requested at any time during the penalty period if new circumstances leading to undue hardship arise during the duration of the penalty period. If granted, the undue hardship request shall be prospective from the date of the request.

7. The department shall have no obligation to pay for long-term care services during the penalty period unless it grants an undue hardship exception or the applicant/enrollee prevails in a fair hearing.

8. The individual must provide to the department sufficient documentation to support, by a preponderance of the evidence, the claim that application of the penalty will result in an undue hardship to the applicant/enrollee (not the community spouse).

9. If undue hardship is determined to exist, the transferred assets or equity value in the home shall not be considered in the eligibility process.

10. If a request for an undue hardship exception is denied, the applicant/enrollee may request a fair hearing.

11. Terminating the Undue Hardship Exception. The department shall terminate the undue hardship exception, if not earlier, at the time an individual, the spouse of the individual, or anyone with authority on behalf of the individual, makes any uncompensated transfer of income or assets after the undue hardship exception is granted.

a. The department shall deny any further requests for an undue hardship exception due to either the disqualification based on the transfer upon which the initial undue hardship determination was based or a disqualification based on the transfer, which required termination of the undue hardship exception.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning and autonomy as described in R.S. 49:942.

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

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, May 29, 2008, at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Alan Levine
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Medicaid Eligibility Transfers of Assets

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

It is anticipated that the implementation of this proposed rule will result in estimated savings to the state of \$24,211 for FY 07-08, \$98,832 for FY 08-09, and \$98,832 for FY 09-10. It is anticipated that \$680 (\$340 SGF and \$340 FED) will be expended in FY 07-08 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately \$62,109 for FY 07-08, \$249,168 for FY 08-09 and \$249,168 for FY 09-10. It is anticipated that \$340 will be expended in FY 07-08 for the federal share of the expense for promulgation of this proposed rule and the final rule.

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

This rule, which continues the provisions of the January 15, 2008, emergency rule, proposes to amend the provisions governing the transfers of assets in determining eligibility for Medicaid coverage (will impact approximately 20 potential recipients per year). It is anticipated that implementation of this proposed rule will decrease program expenditures in the Medicaid Program by approximately \$87,000 for FY 07-08, \$348,000 for FY 08-09 and \$348,000 for FY 09-10 by imposing penalties for transfers sooner and assessing penalties for transfers that were not previously considered in the eligibility process.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

It is anticipated that the implementation of this rule will have no effect on competition and employment.

Jerry Phillips
Medicaid Director
0804#086

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Medication Attendants Certified
(LAC 48:I.10080-10091)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt LAC 48:I.10081-10099 as authorized by R.S. 37:1026.1-37:1026.9. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Act 293 of the 2007 Regular Session of the Louisiana Legislature authorized the Department of Health and Hospitals to establish a three-year pilot program that will allow licensed nursing homes to utilize medication attendants certified (MACs) to administer medications to residents. The Act also authorized the department to establish and maintain a registry of certified medication attendants and to adopt provisions defining minimum qualifications for certification and the authorized and prohibited functions of medication attendants.

In compliance with the directives of Act 293, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated a Notice of Intent to adopt provisions governing the establishment and maintenance of a registry of medication attendants certified and the qualifications and requirements for MACs (*Louisiana Register*, Volume 33, Number 12). As a result of public hearing comments received about this Notice of Intent, the department proposes to adopt revised provisions governing medication attendants certified.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Health Standards

Chapter 100. Nurse Aide Training and Competency

Evaluation Program

Subchapter G. Medication Attendant Certified

§10080. Definitions

Abuse—

1. the willful infliction of injury;
2. unreasonable confinement;
3. intimidation; or
4. punishment with resulting physical harm, pain, or mental anguish.

Department—the Louisiana Department of Health and Hospitals (DHH).

LBP—the Louisiana Board of Pharmacy.

LSBN—the Louisiana State Board of Nursing.

LSBPNE—the Louisiana State Board of Practical Nurse Examiners.

Licensed Nurse—a licensed registered nurse or a licensed practical nurse.

Licensed Practical Nurse—a person licensed by the LSBPNE to practice practical nursing in Louisiana.

Medication Attendant Certified (MAC)—a person certified by DHH to administer medications to nursing facility residents, hereafter referred to as a medication attendant certified.

Nurse Aide—an individual who has completed a nurse aide training and competency evaluation program (NATCEP) approved by the state as meeting the requirements of 42 Code of Federal Regulations (CFR), §§483.151-483.154, or has been determined competent as provided in 42 CFR, §483.150(a) and (b), and is listed as certified and in good standing on Louisiana's nurse aide registry.

Nursing Home—an institution licensed pursuant to R.S. 40:2009.1–2009.10.

Pilot—a program administered by the Department of Health and Hospitals to authorize the certification of medication attendants on a trial basis to perform certain functions in nursing homes licensed and in good standing with DHH and who agree to comply with established criteria to measure the outcome of the program.

Registered Nurse (RN)—a person licensed by the LSBN to practice professional nursing in Louisiana.

Registered Pharmacist—an individual currently licensed by the Louisiana Board of Pharmacy to practice pharmacy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1026.1-37:1026.9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§10081. General Provisions

A. The Department of Health and Hospitals (DHH) implements a three-year pilot project which establishes provisions for the use of medication attendants certified in licensed nursing facilities. The department shall also develop and maintain a registry of individuals who have, at a minimum, successfully completed a state-approved medication attendant certified training course and competency evaluation, and criminal background check.

B. The medication attendant certified registry will contain the following items:

1. a list of individuals who have successfully completed a medication attendant certified training curriculum and competency evaluation. Each individual listed will have the following information maintained on the registry:

- a. name;
- b. address;
- c. Social Security number;
- d. phone number;
- e. place of employment;
- f. date of employment;
- g. date employment ceased;
- h. state certification number;
- i. documentation of any investigation including codes for specific findings of:
 - i. abuse;
 - ii. neglect;
 - iii. extortion;

- iv. exploitation and misappropriation of property; and
- v. an accurate summary of findings after action on findings are final and after any appeal is ruled upon or the deadline for filing an appeal has expired; and
- j. information relative to training and registry status which will be available through procedures established by the department.

C. Employers must use the registry to determine if a prospective hire is a medication attendant certified and if there is a finding that he/she has abused or neglected an individual being supported or misappropriated the individual's property or funds.

D. A certificate holder must notify the department within 30 days after changing his or her address or name.

E. A medication attendant certified or his or her employer, if aware, must immediately notify the department of any arrest in any state.

F. A person who holds a valid license, registration or certificate as a medication attendant issued by another state may also be certified in Louisiana if the transferring state's training program is at least 100 hours or more and the applicant passes the state competency examination.

1. The applicant must submit a request for reciprocity to the registry.

2. The application must include a current copy of the rules of the other state governing its licensing and regulation of medication aides, a copy of the legal authority (law, act, code, or other) for the state's licensing program, and a certified copy of the license or certificate for which the reciprocal certificate is requested.

3. The department may contact the issuing agency to verify the applicant's status with the agency.

G. When issued, an initial certificate is valid for 12 months from the date of issue. The registry will renew the certificate if:

1. a certificate holder has completed four hours of continuing education focusing on medication administration prior to expiration of the certificate; and

2. a certificate holder has worked at least 400 hours per year in a licensed nursing facility.

H. The department shall deny renewal of the certificate of a medication attendant certified who is in violation of this Chapter at the time of the application renewal.

I. A person whose certificate has expired may not engage in activities that require a certificate until the certificate has been renewed.

J. A medication attendant certified must function under the direct supervision of a licensed nurse on duty at the nursing facility. A certificate holder must:

1. function in accordance with applicable laws and rules relating to administration of medication and operation of a nursing facility; and

2. comply with the department's rules applicable to personnel used in a nursing facility.

K. Persons employed as medication attendants certified in a nursing facility must comply with the requirements relating to nurse aides as set forth in the Omnibus Budget Reconciliation Act of 1987, Public Law 100-203, the

department's rule governing the Standards for Payment for Nursing Homes and Minimum Licensure Standards for Nursing Homes or subsequent amendments. Requirements are met if the individual is:

1. a student enrolled in an accredited school of practical nursing or program for the education of vocational nurses who is administering medications as part of the student's clinical experience; or

2. a trainee in a medication assistant training program approved by the department under this Chapter who is administering medications as part of the trainee's clinical experience.

L. While on duty, a MAC's sole function shall be to administer medications to residents. Persons employed as medication attendants in a nursing facility may not be assigned additional responsibilities. If medication administration has been completed, they may assist in other areas.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1026.1-37:1026.9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Subchapter B. Training and Competency Requirements §10082. General Requirements

A. Prior to application for a certificate under this Chapter, all persons must:

1. be proficient in reading, writing, speaking, and understanding the English language at a minimum eighth grade level as evidenced by the following COMPASS scores:

- a. reading, 64;
- b. writing, 25; and
- c. pre-algebra, 31;

2. be a citizen of the United States;

3. be at least 18 years of age;

4. complete a required health and physical examination;

5. be a graduate of high school or have a general equivalency diploma;

6. be currently employed in a facility as a certified nurse aide on the first official day of an applicant's medication attendant training program or be a graduate of a nursing program; and

7. successfully pass a statewide criminal history background check and verification of the results sent to the training entity.

B. A medication attendant certified may not administer medication to a resident in a nursing facility unless he/she:

1. holds a current certificate issued by the department under this Chapter and acts under the supervision of a person who holds a current license under state law which authorizes the licensee to administer medication; or

2. is currently enrolled in a state approved training course and is acting under the direct supervision of faculty.

C. All medication attendant training and competency evaluation programs must be approved by the department.

D. Training and competency evaluation programs may be provided by the Louisiana Community and Technical College System (LCTCS) during the three year pilot project.

E. Each training and competency evaluation program must:

1. maintain qualified, approved registered nurses and licensed practical nurses for classroom and clinical instruction;
2. protect the integrity of the competency evaluations by keeping them secure;
3. utilize a pass rate of at least 80 percent for each individual student; and
4. assure the curriculum meets state requirements.

F. Clinical instruction must be conducted in an approved nursing facility with a ratio of no more than 5:1 under the direct supervision of the instructor.

G. Training programs that do not meet the minimum standards and cannot provide an acceptable plan for correcting deficiencies will be eliminated from participation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1026.1-37:1026.9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§10083. Trainee Responsibilities

A. Each medication attendant trainee should be clearly identified as a trainee during all clinical portions of the training. Identification should be recognizable to residents, family members, visitors and staff.

B. Trainees must take the competency evaluation (through skills demonstration and written examination) within 30 days after completion of the training program. Trainees will be given a maximum of two opportunities within 90 days following completion of the training program to successfully complete the competency evaluation program.

C. If a trainee fails to successfully complete the competency evaluation program, he or she must re-enroll in a training program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1026.1-37:1026.9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§10084. Training Curriculum

A. The goal of the medication attendant training and competency evaluation program is the provision of safe, effective and timely administration of medication to residents by medication attendants who are able to:

1. communicate and interact competently on a one-to-one basis with residents as part of the team implementing resident care;
2. demonstrate sensitivity to the resident's emotional, social and mental health needs through skillful, directed interactions;
3. exhibit behavior to support and promote the rights of residents; and
4. demonstrate proficiency in the skills related to medication administration.

B. Each medication attendant training program shall provide all trainees with a nursing facility orientation that is not included in the required minimum 100 hours of core curriculum. The orientation program shall include, but is not limited to:

1. an explanation of the facility's organizational structure;

2. the facility's policies and procedures;
3. discussion of the facility's philosophy of care;
4. a description of the resident population; and
5. employee rules.

C. Core Curriculum. The curriculum content for the training program must include material which provides a basic level of knowledge and demonstrable skills for each individual completing the program. The content should include the needs of populations which may be served by an individual nursing facility.

1. The core curriculum must be a minimum of 100 hours in length with a minimum of 40 clinical hours.
2. Each unit objective must be behaviorally-stated for each topic of instruction. Each objective must state performance criteria which are measurable and will serve as the basis for the competency evaluation.

D. Minimum Curriculum. The training program must be developed and conducted to ensure that each medication attendant, at a minimum, is able to demonstrate competency in the following areas including, but not limited to:

1. the basic principles of medication administration and the responsibilities of the medication attendant including:
 - a. the role and functions of a MAC;
 - b. the professional relationship between the MAC and the residents and their families; and
 - c. prohibited functions or duties;
2. definition of nurse delegation;
3. definition of the basic terms used in medication administration, including identification of the abbreviations used in medication orders and on the medication administration records;
4. review of the various forms of medications;
5. methods of medication administration including:
 - a. proper positioning of resident for various medication administrations; and
 - b. the value of good body alignment prior to and after medication administration;
6. requirements for proper storage and security of medications;
7. proper methods for disposal of drugs;
8. infection control;
9. basic anatomy and physiology;
10. the functions of the gastrointestinal, musculoskeletal, integumentary, nervous, sensory, renal and urinary, reproductive, cardiovascular, respiratory, and endocrine systems;
 - a. description of the common disorders associated with these systems; and
 - b. the effect of aging on these systems;
11. definition of pharmacology including:
 - a. medication classifications,
 - b. a description of a controlled drug and how administration of these drugs differ;
 - c. the cycle of a drug in the body; and
 - d. side effects of medications;
12. the safe administration of all forms of oral medication including:
 - a. a description of the difference among all forms of oral medication; and

b. special precautions observed when administering timed-release capsules, enteric-coated tablets and oral suspensions;

13. appropriate procedures to follow when the resident is NPO, dysphagic, refuses the medication, vomits the medication, or has allergies;

14. application of topical medications and the standard precautions utilized in administering a topical medication;

15. the safe instillation of ophthalmic drops and ointments;

16. the safe administration of nose drops;

17. proper technique for administration of inhalant medications including:

a. a description of when the MAC may administer an inhalant;

18. the safe administration of a rectal suppository;

19. the safe administration of a vaginal medication;

20. developing proficiency in measuring liquid medications in a medicine cup or syringe;

21. measuring apical pulse and/or blood pressure (B/P) prior to medication administration;

22. the importance of the "chain of command;"

23. developing effective communication and interpersonal skills;

24. maintaining communication with the licensed nurse including:

a. a description of the situations that must be reported to the nurse;

25. the purpose of the clinical record and the importance of timely, clear and complete documentation in the medication administration record;

26. methods for avoiding medication errors:

a. reporting and documentation requirements when medication errors occur;

27. a resident's rights related to medication administration;

28. a discussion of the "rights" of medication administration;

29. the application and certification; and

30. violations of the laws and rules that may result in disciplinary action and/or loss of certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1026.1-37:1026.9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§10085. Competency Evaluation

A. A competency evaluation must be developed and conducted to ensure that each trainee, at a minimum, is able to demonstrate competencies taught in each part of the training curriculum.

B. Written examinations will be provided by the training entity or organizations approved by the department. The examination will reflect the content and emphasis of the training curriculum and will be developed in accordance with accepted educational principles.

C. The entity responsible for the training and competency evaluation must report to the registry the names of all individuals who have satisfactorily completed the curriculum after the training is completed. Within 15 days after a medication attendant certified has successfully

completed the training and competency evaluation, the training entity shall notify the registry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1026.1-37:1026.9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§10086. Authorized Duties

A. The medication attendant certified may perform certain duties and functions under the direct supervision of a licensed nurse. These authorized duties will apply to medication attendant trainees under the supervision of the clinical instructor. The ratio of medication attendants certified to licensed nurses shall not exceed two medication attendants to one licensed nurse at any given time.

B. Medication attendants certified may:

1. observe and report to the licensed nurse a resident's adverse reaction to a medication;

2. administer medications which require vital signs only with direct authorization from the licensed nurse prior to administration;

3. take and record vital signs prior to the administration of medication that could affect or change the vital signs;

4. in an emergency only, administer oxygen at 2 liters per minute per nasal cannula and immediately after the emergency, verbally notify the licensed nurse on duty and appropriately document the action and notification;

5. administer regularly prescribed medication only after personally preparing (setting up) the medications to be administered;

6. deliver and administer certain prescribed medications ordered by an authorized prescriber by the following methods:

a. orally;

b. topically (to intact skin only);

c. drops and sprays for the eye, ear or nose;

d. vaginally;

e. rectally;

f. transdermally;

g. by metered dose oral inhalation; or

h. sublingually;

7. record medications administered in the resident's chart and/or medication administration record;

8. chart medication effects and side effects;

9. administer medications which require vital signs, only with direct authorization from the licensed nurse prior to administration:

a. the results of the vital signs must be documented in the clinical record;

10. administer pro re nata (prn), as needed medications only with direct authorization of the licensed nurse;

11. measure prescribed liquid medication only if verified by the licensed nurse prior to administration; and

12. crush prescribed medications only if ordered by the physician and verified by the licensed nurse.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1026.1-37:1026.9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§10087. Prohibited Duties

A. Medication attendants certified shall not:

1. administer any controlled dangerous substances (schedules II through V) as set forth by the Drug Enforcement Agency or the Louisiana Board of Pharmacy;
2. administer any medications by the following parenteral routes:
 - a. intramuscular;
 - b. intravenous;
 - c. subcutaneous; or
 - d. intradermal;
3. administer any medication used for intermittent positive breathing (IPPB) treatments;
4. administer an initial dose of a medication that has not been previously administered to a resident as determined by the clinical record;
5. calculate medication doses for administration;
6. administer medications or feedings by way of a tube inserted in a cavity of the body;
7. receive or assume responsibility for writing any verbal or telephone order from an authorized prescriber;
8. order new medications or medications whose directions have changed from the pharmacy;
9. apply topical medications that involve the treatment of skin that is broken;
10. steal, divert or otherwise misuse medication;
11. violate any provision of this Chapter;
12. procure or attempt to procure a certificate by fraudulent means;
13. neglect to administer prescribed medications in a responsible and timely manner;
14. perform a task involving the administration of a medication which requires:
 - a. an assessment of the patient's physical status;
 - b. an assessment of the need for the medication;
 - c. a calculation of the dose of the medication; or
 - d. the conversion of the dose;
15. perform a task involving the administration of a medication if the patient is unstable or has changing nursing needs, unless the supervising nurse is able to monitor the patient and the effect of the medication on the patient; or
16. administer medications if he/she is unable to do so with reasonable skill and safety to the resident if the resident is impaired by reason of excessive use of mood altering drugs, narcotics, chemicals or any other type of material.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1026.1-37:1026.9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Subchapter D. Provider Participation

§10088. Provider Participation and Responsibilities

A. A nursing facility must apply to the department to utilize medication attendants certified. Upon receipt of a facility's application, the department will review the facility's compliance history.

B. If a facility is non-compliant with program regulations, the department shall take into consideration the findings that resulted in the facility's noncompliance before making a determination whether or not to allow the facility to utilize medication attendants certified. Emphasis shall be placed on deficiencies cited in the area of medication

administration such as significant medication errors, medication error rates and repeat deficiencies.

C. The department may deny a facility's request to use medication attendants if it is determined that, based upon the compliance history, the safety and well-being of residents would be jeopardized. If the facility is denied participation, the facility may ask for a reconsideration and review of the circumstances which contributed to the denial.

D. The following information must be provided prior to acceptance in the pilot project:

1. the number of beds for the entire nursing facility and beds per unit;
2. the type of nursing facility;
3. the staffing levels per shift;
4. the turnover rate of staff;
5. a plan for orientation and utilization of medication attendants certified, including orientation of all staff to the role of medication attendants;
6. the number and type of medication errors in the year prior to the utilization of medication attendants certified;
7. a survey of patient satisfaction, including the patient's perception of receiving medications, prior to the utilization of medication attendants certified; and
8. a statement that the nursing home will utilize the medication attendants certified in accordance with the accepted rules and regulations and will provide evaluation information as indicated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1026.1-37:1026.9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Subchapter E. Violations

§10089. Allegations of Medication Attendant Certified

Wrong-Doing

A. The department, through its Bureau of Appeals, has provided for a process of the review and investigation of all allegations of resident abuse, neglect or misappropriation of residents' property or funds by medication attendants certified.

B. In the event of an allegation of wrong-doing, medication attendants certified shall be bound by the department's established:

1. reporting requirements;
2. informal dispute resolution policies;
3. preliminary conference requirements; and
4. appeal and administrative hearing provisions:

a. the formal hearing shall be conducted according to formal hearing procedures set forth in the Administrative Procedure Act.

C. Through the formal hearing process, determinations will be made on both the certificate for medication attendant and the certificate for nurse aide practice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1026.1-37:1026.9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§10090. Suspension, Revocation or Non-Renewal

A. The department may revoke, suspend or refuse to renew a certificate or reprimand a certificate holder for a violation of this Chapter.

B. The following are grounds for disciplinary actions:

1. stealing, diverting or otherwise misusing medication;
2. procuring or attempting to procure a certificate by fraudulent means; or
3. violating any provision of this Chapter.

C. Prior to institution of formal proceedings to revoke or suspend a permit, the department shall give written notice to the certificate holder of the facts or conduct alleged to warrant revocation, suspension or rescission. The certificate holder shall be given an opportunity to show compliance with all requirements of this Chapter.

D. If denial, revocation or suspension of a certificate is proposed, the department shall give written notice that the certificate holder must submit a written request for a formal hearing within 30 days of receipt of the notice. If not, the right to a hearing shall be waived and the certificate shall be denied, revoked or suspended.

E. If the department suspends a MAC's certificate, the suspension shall remain in effect until the department:

1. determines that the reason for suspension no longer exists;
2. revokes the certificate; or
3. determines not to renew the certificate.

F. The department shall investigate prior to making a final determination on a suspended certificate. During the time of suspension, the suspended certificate holder must return his certificate to the department.

1. If a suspension overlaps a certificate renewal date, the suspended certificate holder shall be subject to the renewal procedures stated in §8603.G. However, the department shall not renew the certificate until it determines that the reason for suspension no longer exists.

G. If the department revokes or does not renew a certificate, a person may reapply for a certificate by complying with the provisions of this Chapter at the time of reapplication. The department may refuse to issue a certificate if the reason for revocation or non-renewal continues to exist.

1. If a certificate is revoked or not renewed, the certificate holder must immediately return the certificate to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1026.1-37:1026.9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Subchapter F. Pilot Program

§10091. Evaluation of Pilot Program

A. In order to evaluate the effectiveness of the medication attendant certified program and its impact on the quality of patient care in nursing homes, it is required that the education programs and nursing facilities that choose to participate in the pilot program must participate in the evaluation of all components of the program. They must utilize the appropriate evaluation forms designated by the department and within the required time frames. The completed forms must be submitted to the department.

B. The areas of evaluation and data to be collected are as follows:

1. education program;
2. level of student achievement;
3. student satisfaction surveys;

4. faculty satisfaction; and

5. nursing facility satisfaction surveys.

C. Medication Errors. Nursing facilities shall be required to maintain documentation of medication errors on an ongoing basis and shall submit this information to the department on a monthly basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1026.1-37:1026.9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability or autonomy as described in R.S. 49:972.

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, May 29, 2008 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Alan Levine
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Medication Attendants Certified

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

It is anticipated that the implementation of this proposed rule will have no programmatic fiscal impact to the state other than cost of promulgation for FY 07-08. It is anticipated that \$2,108 (\$1,054 SGF and \$1,054 FED) will be expended in FY 07-08 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections other than the federal share of the promulgation costs for FY 07-08. It is anticipated that \$1,054 will be collected in FY 07-08 for the federal share of the expense for promulgation of this proposed rule and the final rule.

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

This rule proposes to adopt provisions to establish a three-year pilot program that will allow nursing facilities to utilize certified medication attendants to administer medications to residents. It also establishes provisions governing a certified medication attendant registry and minimum qualifications for certification and functions. It is not possible at this time to estimate the impact of implementation of this proposed Rule to directly affected persons or non-governmental groups because it is unknown how many nursing facilities and certified

medication attendants will choose to participate in this program.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known impact on competition and employment.

Jerry Phillips
Director
0804#087

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

**Nursing Facility Minimum Licensing Standards
Emergency Preparedness
(LAC 48:I.9729)**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to amend LAC 48:I.9729 as authorized by R.S. 36:254 and R.S. 40:2009.1-2116.4. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated a Rule to adopt minimum licensing standards for nursing homes (*Louisiana Register*, Volume 24, Number 1). Act 540 of the 2006 Regular Session of the Louisiana Legislature directed the department, in consultation with the governor's Office of Homeland Security, to adopt provisions governing emergency preparedness requirements for nursing facilities.

In compliance with the directives of Act 540, the department amended the January 20, 1998, Rule to revise the provisions governing emergency preparedness requirements for nursing facilities (*Louisiana Register*, Volume 32, Number 12). The department promulgated an Emergency Rule to amend the December 20, 2006, Rule to further revise and clarify the provisions governing emergency preparedness requirements for nursing facilities (*Louisiana Register*, Volume 33, Number 6). A Notice of Intent was promulgated to continue the provisions of the June 10, 2007, Emergency Rule (*Louisiana Register*, Volume 33, Number 12). As a result of public hearing comments received about the Notice of Intent, the department amended the June 10, 2007, Emergency Rule to furnish additional clarification of the emergency preparedness provisions for nursing facilities (*Louisiana Register*, Volume 34, Number 3). This proposed Rule is being promulgated to continue the provisions of the March 20, 2008, Emergency Rule.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing

Chapter 97. Nursing Homes

Subchapter B. Organization and General Services

§9729. Emergency Preparedness

A. The nursing facility shall have an emergency preparedness plan which conforms to the current Louisiana

Model Nursing Home Emergency Plan and these regulations. The plan shall be designed to manage the consequences of all hazards, declared disasters or other emergencies that disrupt the facility's ability to provide care and treatment or threatens the lives or safety of the residents. The facility shall follow and execute its emergency preparedness plan in the event of the occurrence of a declared disaster or other emergency.

1. All nursing facilities located in the parishes named in Louisiana R.S. 40:2009.25(A) shall submit their emergency preparedness information and documentation to the department for review. Upon request, all other nursing facilities shall forward their emergency preparedness information and documentation to the Department of Health and Hospitals (DHH) for review.

a. Emergency preparedness information and documentation shall, at a minimum, include:

i. a copy of the nursing facility's emergency preparedness plan;

ii. updates, amendments, modifications or changes to the nursing facility's emergency preparedness plan;

iii. the current census and number of licensed beds; and

iv. the facility location and current contact information.

2. After reviewing the nursing facility's plan, if the department determines that the plan is not viable or does not promote the health, safety and welfare of nursing facility residents, the facility shall, within 10 days of notification, respond with an acceptable plan of correction to amend its emergency preparedness plan.

B. A nursing facility shall enter current facility information into the Health Standards Section's (HSS) emergency preparedness webpage.

1. The following information shall be entered into the HSS Emergency Preparedness webpage before the fifteenth of each month:

a. operational status;

b. census;

c. emergency contact and destination location information;

d. emergency evacuation transportation needs categorized by the following types:

i. total number needing a coach or bus;

ii. total number needing a para-transit or wheelchair accessible vehicle;

iii. total number needing transportation other than car, coach, bus or wheelchair accessible vehicle, but do not need advanced life support; or

iv. total number needing an advance life support ambulance.

2. A facility shall also enter information within 24 hours of an emergency event. Emergency events include, but are not limited to hurricanes, floods, fires, chemical or biological hazards, power outages, tornados, tropical storms and severe weather.

3. In addition, a facility shall enter updated information requested by the department within 48 hours.

4. - 5. Repealed.

C. The emergency preparedness plan shall be individualized and site specific. All information submitted

shall be current and correct. At a minimum, the nursing facility shall have a written emergency plan that addresses:

1. the procedures and criteria used for determining when the nursing facility will evacuate, including a listing of evacuation determinations;

2. the procedures and criteria used for determining when the nursing facility will shelter in place, including a listing of sheltering in place determinations;

3. a primary sheltering host site(s) and alternative sheltering host site(s) outside the area of risk. These host sites must be verified by written agreements or contracts that have been signed and dated by all parties. These agreements or contracts shall be verified annually;

4. the policies and procedures for mandatory evacuations:

a. if the state, parish, or local Office of Homeland Security and Emergency Preparedness (OHSEP) orders a mandatory evacuation of the parish or area in which the nursing facility is located, the facility shall evacuate unless the facility receives a written exemption from the ordering authority prior to the mandated evacuation;

5. the monitoring of weather warnings and watches as well as evacuation orders from local and state emergency preparedness officials:

a. this monitoring plan shall identify who will perform the monitoring, what equipment will be used for monitoring, and who should be contacted if needed;

6. the delivery of essential care and services to residents, whether the residents are housed in the nursing facility, at an off-site location, or when additional residents are housed in the nursing facility during an emergency;

7. the provisions for the management of staff, including provisions for adequate, qualified staff as well as for distribution and assignment of responsibilities and functions, either within the nursing facility or at another location;

8. an executable plan for coordinating transportation services that are adequate for the resident census and staff. The vehicles required for evacuating residents to another location shall be air-conditioned when available. The plan shall include the following information:

a. a triage system to identify residents who require specialized transportation and medical needs including the number of residents who need:

- i. an ambulance for advanced life support;
- ii. an ambulance for basic life support;
- iii. a wheelchair accessible or para-transit vehicle;

and/or

- iv. a van, coach or bus;

b. a written transportation contract(s) for the evacuation of residents and staff to a safe location outside the area of risk that is signed and dated by all parties. Vehicles that are owned by or at the disposal of the facility must have written usage agreements that are signed, dated and include verification of ownership;

NOTE: A copy of a vehicle's title or registration will be sufficient for verification of ownership.

c. The transportation contract and the written usage plans shall include:

- i. the number and type of vehicles included in the contract;
- ii. the capacity of each vehicle included in the contract; and

iii. a statement of whether each vehicle is air conditioned; and

d. plans to prevent and treat heat related medical illnesses due to the failure of or the lack of air conditioning during transport;

9. the procedures to notify the resident's family or responsible representative of the facility's intent to either shelter in place or evacuate. The facility shall have a designee(s) who will be responsible for this notification. If the facility evacuates, notification shall include:

a. the date and approximate time that the facility is evacuating;

b. the place or location to which the nursing facility is evacuating, including the:

- i. name;
- ii. address; and
- iii. telephone number;

c. a telephone number that the family or responsible representative may call for information regarding the facility's evacuation;

NOTE: Notification to the resident's family or responsible party shall be made as far in advance as possible, but at least within 24 hours of the determination to shelter in place or after evacuation.

10. the procedures or methods that will be used to attach identification to the nursing facility resident. The facility shall designate a staff person to be responsible for this identification procedure. This identification shall remain attached to the resident during all phases of an evacuation and shall include the following minimum information:

- a. current and active diagnosis;
- b. medications, including dosage and times administered;
- c. allergies;
- d. special dietary needs or restrictions; and
- e. next of kin, including contact information;

11. the procedures for ensuring that an adequate supply of the following items accompany residents on buses or other transportation during all phases of evacuation:

- a. water;
- b. food;
- c. nutritional supplies and supplements;
- d. medication; and
- e. other necessary supplies;

NOTE: The facility shall designate a staff person to be responsible for ensuring that essential supplies are available during all phases of the evacuation.

12. the procedures for ensuring that all residents have access to licensed nursing staff and that appropriate nursing services are provided during all phases of the evacuation:

a. for buses transporting 15 or more residents, licensed nursing staff shall accompany the residents on the bus:

i. a licensed therapist(s) may substitute for licensed nursing staff;

13. staffing patterns for sheltering in place and for evacuation, including contact information for such staff;

14. a plan for sheltering in place if the nursing facility determines that sheltering in place is appropriate:

NOTE: A nursing facility shall be considered sheltering in place if the facility elects to stay in place rather than evacuate when an executive order or proclamation of emergency or disaster is issued for the parish in which the facility is located pursuant to R.S. 29:724.

a. if the nursing facility shelters in place, the facility's plan shall ensure that seven days of necessary supplies are on hand or have written agreements, including timelines, to have supplies delivered prior to the emergency event. Supplies should include, but are not limited to:

- i. drinking water or fluids, a minimum of 1 gallon per day per person sheltering at the facility;
- ii. water for sanitation;
- iii. non-perishable food, including special diets;
- iv. medications;
- v. medical supplies;
- vi. personal hygiene supplies; and
- vii. sanitary supplies;

b. if the nursing facility shelters in place, the facility's plan shall provide for a posted communications plan for contacting emergency services and monitoring emergency broadcasts. The facility shall designate a staff person to be responsible for this function. The communication plan shall include:

- i. the type of equipment to be used;
- ii. back-up equipment to be used if available;
- iii. the equipment's testing schedule; and
- iv. the power supply for the equipment being used;

c. the facility's plan must include a statement indicating whether the facility has a generator for sheltering in place. If the facility has such a generator, the plan shall provide for a seven day supply of fuel, either on hand or delivered prior to the emergency event. If the facility has such a generator, the plan shall provide a list of the generator's capabilities including:

- i. its ability to provide cooling or heating for all or designated areas in the facility;
- ii. the ability to power an OPH approved sewerage system;
- iii. the ability to power an OPH approved water system;
- iv. the ability to power medical equipment;
- v. the ability to power refrigeration;
- vi. the ability to power lights; and
- vii. the ability to power communications;

d. an assessment of the integrity of the facility's building to include, but not be limited to:

- i. wind load or ability to withstand wind;
- ii. flood zone and flood plain information;
- iii. power failure;
- iv. age of building and type of construction; and
- v. determinations of, and locations of interior safe zones;

e. plans for preventing and treating heat related medical illnesses due to the failure of or the lack of air conditioning while sheltering in place; and

f. the facility's plan must include instructions to notify OHSEP and DHH of the facility's plan to shelter in place;

15. those nursing facilities that are subject to the provisions of R.S. 40:2009.25(A) shall perform a risk assessment to determine the facility's integrity. The integrity of the facility and all relevant and available information shall be used in determining whether sheltering in place is appropriate. All elevations shall be given in reference to sea level or adjacent grade as appropriate. The assessment shall be reviewed and updated annually. The risk assessment shall

include the facility's determinations and the following documentation:

- a. the facility's latitude and longitude;
- b. flood zone determination for the facility and base flood elevation, if available:

i. the facility shall evaluate how these factors will affect the building;

c. elevations of the building(s), heating ventilation and air conditioning (HVAC) system(s), generator(s), fuel storage, electrical service, water system and sewer motor, if applicable:

i. the facility shall evaluate how these factors will affect the facility considering projected flood and surge water depths;

d. an evaluation of the building to determine its ability to withstand wind and flood hazards to include:

- i. the construction type and age;
- ii. roof type and wind load;
- iii. windows, shutters and wind load;
- iv. wind load of shelter building;
- v. location of interior safe zones;

NOTE: If wind load determinations are not available, the facility shall give the reason.

e. an evaluation of each generator's fuel source(s), including refueling plans, fuel consumption rate and a statement that the output of the generator(s) will meet the electrical load or demand of the required (or designated) emergency equipment;

f. the determinations of an evaluation of surroundings, including lay-down hazards or objects that could fall on the building and hazardous materials, such as:

- i. trees;
- ii. towers;
- iii. storage tanks;
- iv. other buildings;
- v. pipe lines;
- vi. chemical and biological hazards; and
- vii. fuels;

g. Sea, Lake and Overland Surge from Hurricanes (SLOSH) Modeling using the Maximum's of the Maximum Envelope of Waters (MOM) for the facility's specific location and the findings for all categories of hurricanes. The model will be done using both mean and high tides. The facility's plan must include an evaluation of how this will or will not affect the facility;

16. the facility's plan shall provide for an evaluation of security risks and corresponding security precautions that will be taken for protecting residents, staff and supplies during and after an emergency event;

17. the facility's plan shall include clearly labeled and legible floor plan(s) of the nursing facility's building(s). The facility's plan shall include the following:

- a. the areas being used as shelter or safe zones;
- b. the supply and emergency supply storage areas;
- c. the emergency power outlets;
- d. the communications center;
- e. the location of the posted emergency plan:
 - i. the posted location must be easily accessible to staff; and

f. a pre-designated command post.

D. Emergency Plan Activation, Review and Summary

1. The nursing facility's shelter in place and evacuation plan(s) shall be activated at least annually, either

in response to an emergency or in a planned drill. The facility's performance during the activation of the plan shall be evaluated and documented. The plan shall be revised if a need is indicated by the nursing facility's performance during the emergency event or the planned drill.

2. Nursing facilities subject to the provisions of R.S. 40:2009.25(B) shall submit a summary of the updated plan to the department's nursing facility emergency preparedness manager by March 1 of each year. If changes are made during the year, a summary of the amended plan shall be submitted within 30 days of the modification. All agreements and contracts must be verified by all parties annually and submitted.

E. The nursing facility's plan shall be submitted to the parish or local OHSEP annually. Any recommendations by the parish or local OHSEP regarding the nursing facility's plan shall be documented and addressed by the facility.

1. For nursing facilities listed in the R.S. 40:2009.25(A), the following requirements must be met.

a. The nursing facility's plan shall include verification of its submission to the parish or local OHSEP.

b. A copy of any and all response(s) by the nursing facility to the local or parish OHSEP recommendations shall be forwarded to DHH nursing home preparedness manager.

F. The plan shall be available to representatives of the Office of the State Fire Marshal and the Office of Public Health.

1. - 2. Repealed.

G. The facility's plan shall follow all applicable laws, standards, rules or regulations.

1. - 2.c. Repealed.

H. Evacuation, Temporary Relocation or Temporary Cessation

1. The following applies to any nursing facility that evacuates, temporarily relocates or temporarily ceases operation at its licensed location an emergency event.

a. The nursing facility must immediately give written notice to the Health Standards Section by hand delivery, facsimile or email of the following information:

i. the date and approximate time of the evacuation;

ii. the sheltering host site(s) to which the nursing facility is evacuating; and

iii. a list of residents being evacuated, which shall indicate the evacuation site for each resident.

b. Within 48 hours, the nursing facility must notify the Health Standards Section of any deviations from the intended sheltering host site(s) and must provide the Health Standards Section with a list of all residents and their locations.

c. If there was no damage to the licensed location due to the emergency event and there was no power outage of more than 48 hours at the licensed location due to the emergency event, the nursing facility may reopen at its licensed location and shall notify DHH Health Standards within 24 hours of reopening. For all other evacuations, temporary relocations, or temporary cessation of operations due to an emergency event, a nursing facility must submit to Health Standards a written request to reopen, prior to

reopening at the licensed location. That request shall include:

i. damage report;

ii. extent and duration of any power outages;

iii. re-entry census;

iv. staffing availability;

v. access to emergency or hospital services; and

vi. availability and/or access to food, water, medications and supplies.

2. Upon receipt of a reopening request, the department shall review and determine if reopening will be approved. The department may request additional information from the nursing facility as necessary to make determinations regarding reopening.

3. After review of all documentation, the department shall issue a notice of one of the following determinations:

a. approval of reopening without survey;

b. surveys required before approval to reopen will be granted. Surveys may include OPH, Fire Marshall and Health Standards; or

c. denial of reopening.

4. The purpose of the surveys referenced above is to assure that the facility is in compliance with the licensing standards including, but not limited to, the structural soundness of the building, the sanitation code, staffing requirements and the execution of emergency plans.

a. The Health Standards Section, in coordination with state and parish OHSEP, will determine the facility's access to the community service infrastructure, such as hospitals, transportation, physicians, professional services and necessary supplies.

b. The Health Standards Section will give priority to reopening surveys.

5. Upon request by the department, the nursing facility shall submit a written summary attesting how the facility's emergency preparedness plan was followed and executed. The initial summary shall contain, at a minimum:

a. pertinent plan provisions and how the plan was followed and executed;

b. plan provisions that were not followed;

c. reasons and mitigating circumstances for failure to follow and execute certain plan provisions;

d. contingency arrangements made for those plan provisions not followed; and

e. a list of all injuries and deaths of residents that occurred during execution of the plan, evacuation and temporary relocation including the date, time, causes and circumstances of the injuries and deaths.

I. Sheltering in Place. If a nursing facility shelters in place at its licensed location during an emergency event, the following will apply.

1. Upon request by the department, the nursing facility shall submit a written summary attesting how the facility's emergency preparedness plan was followed and executed. The initial summary shall contain, at a minimum:

a. pertinent plan provisions and how the plan was followed and executed;

b. plan provisions that were not followed;

c. reasons and mitigating circumstances for failure to follow and execute certain plan provisions;

d. contingency arrangements made for those plan provisions not followed; and

e. a list of all injuries and deaths of residents that occurred during the execution of the plan, including the date, time, causes and circumstances of these injuries and deaths.

J. Unlicensed Sheltering Sites

1. In the event that a nursing facility evacuates, temporarily relocates or temporarily ceases operations at its licensed location due to an emergency event, the nursing facility shall be allowed to remain at an unlicensed sheltering site for a maximum of five days. A nursing facility may request one extension, not to exceed 15 days, to remain at the unlicensed sheltering site.

a. The request shall be submitted in writing to the Health Standards Section and shall be based upon information that the nursing facility's residents will return to its licensed location, or be placed in alternate licensed nursing home beds within the extension period requested.

b. The extension shall only be granted for good cause shown and for circumstances beyond the control of the nursing facility.

c. This extension shall be granted only if essential care and services to residents are ensured at the current sheltering facility.

2. Upon expiration of the five days or upon expiration of the written extension granted to the nursing facility, all residents shall be relocated to a licensed nursing facility and the Health Standards Section and OHSEP shall be informed of the residents' new location(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 24:49 (January 1998), amended LR 32:2261 (December 2006), LR 34:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 by assuring the health and safety of nursing facility residents in the event of declared disasters or other emergencies.

Interested persons may submit written comments to Jerry Phillips, Department of Health and Hospitals, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, May 29, 2008, at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Alan Levine
Secretary

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

**RULE TITLE: Nursing Facility Minimum Licensing
Standards—Emergency Preparedness**

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

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 07-08. It is anticipated that \$1,700 (\$850 SGF and \$850 FED) will be expended in FY 07-08 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections other than the federal share of the promulgation costs for FY 07-08. It is anticipated that \$850 will be collected in FY 07-08 for the federal share of the expense for promulgation of this proposed rule and the final rule.

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

This proposed rule, which continues the provisions of the March 20, 2008 Emergency Rule, further clarifies the provisions governing emergency preparedness requirements for nursing facilities. It is not possible at this time to estimate the impact of implementation of this proposed rule to non-governmental groups because it is indeterminable how many nursing facilities will activate emergency preparedness plans and how much cost will be attributed to these activations.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jerry Phillips
Medicaid Director
0804#096

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

**Pain Management Clinics—Licensing Standards
(LAC 48:I.7801)**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to amend LAC 48:I.7801 as authorized by R.S. 36:254 and R.S. 40:2198.11-13. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

In compliance with Act 488 of the 2005 Regular Session of the Louisiana Legislature, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions establishing the licensing standards for pain management clinics (*Louisiana Register*, Volume 34, Number 1). Pain management clinics are public or private facilities which primarily engage in the treatment

of pain by prescribing narcotic medications. The department promulgated an Emergency Rule to amend the provisions contained in the January 20, 2008, Rule to further clarify the definition of pain management specialist as related to services furnished by urgent care facilities (*Louisiana Register*, Volume 34, Number 1). This proposed Rule is being promulgated to continue the provisions of the January 20, 2008, Emergency Rule.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 78. Pain Management Clinics

Subchapter A. General Provisions

§7801. Definitions

* * *

Pain Specialist—a physician, licensed in Louisiana, with a certification in the subspecialty of pain management by a member board of the American Boards of Medical Specialties.

1. For urgent care facilities in operation on or before June 15, 2005, the definition of pain specialist is a physician who is licensed in the state of Louisiana, board-certified in his or her area of residency training and certified within one year from the adoption of this Rule in the subspecialty of pain management by any board or academy providing such designation such as the American Boards of Medical Specialties, American Board of Pain Management, American Academy of Pain Management or the American Board of Interventional Pain Physicians. Any conflict, inconsistency or ambiguity with any other regulations contained in this chapter shall be controlled by §7801.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 40:2198.11-13.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:80 (January 2008), amended LR 34:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability or autonomy as described in R.S. 49:972.

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, May 29, 2008, at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Alan Levine
Secretary

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

**RULE TITLE: Pain Management Clinics
Licensing Standards**

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

It is anticipated that the implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 07-08. It is anticipated that \$204 (\$102 SGF and \$102 FED) will be expended in FY 07-08 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that the implementation of this proposed Rule will not affect federal revenue collections other than the federal share of the promulgation costs for FY 07-08. It is anticipated that \$102 will be collected in FY 07-08 for the federal share of the expense for promulgation of this proposed rule and the final rule.

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

This rule, which continues the provisions of the January 20, 2008, Emergency Rule, proposes to amend the provisions governing licensing standards for pain management clinics to clarify the definition of pain management specialist as related to services furnished by urgent care facilities. It is anticipated that implementation of this proposed rule will not have estimable cost or economic benefits for directly affected persons or non-governmental groups in FY 07-08, FY 08-09 and FY 09-10.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this rule will have no effect on competition and employment.

Jerry Phillips
Medicaid Director
0804#083

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Pregnant Women Extended Services
Dental Services
(LAC 50:XV.16105)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to amend LAC 50:XV.16105 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing currently

provides coverage of dental services for Medicaid eligible pregnant women 21 years of age or older who have evidenced the need for periodontal treatment (*Louisiana Register*, Volume 30, Number 3). The bureau amended the March 20, 2004, Rule to clarify the provisions governing the prior authorization of these services (*Louisiana Register*, Volume 34, Number 3). The bureau now proposes to amend the March 20, 2008 Rule to include an additional dental service that is already covered for Medicaid eligible pregnant women but was omitted from the list of covered services and to correct a spelling of a covered service in §16105 of these provisions.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 13. Pregnant Women Extended Services

Chapter 161. Dental Services

§16105. Covered Services

A. - A.16. ...

17. prefabricated stainless steel crown, primary or permanent tooth;

18. - 19 ...

20. periodontal scaling and root planing—four or more contiguous teeth or bounded teeth spaces per quadrant;

A.21. - B. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:434 (March 2004), amended LR 34:442 (March 2008), LR 34:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 by providing access to medically necessary dental services for pregnant women.

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

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, May 29, 2008 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Alan Levine
Secretary

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

**RULE TITLE: Pregnant Women Extended Services
Dental Services**

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

It is anticipated that the implementation of this proposed rule will have no programmatic fiscal impact to the state for FY 07-08, FY 08-09, and FY 09-10. It is anticipated that \$204 (\$102 SGF and \$102 FED) will be expended in FY 07-08 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections other than the federal share of the promulgation costs for FY 07-08. It is anticipated that \$102 will be collected in FY 07-08 for the federal share of the expense for promulgation of this proposed rule and the final rule.

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

This rule proposes to amend the March 20, 2008 rule to include an additional dental service that is already covered for Medicaid eligible pregnant women but was omitted from the list of covered services and to correct a spelling of a covered service in §16105 of these provisions. It is anticipated that implementation of this proposed rule will not have estimable cost or economic benefits for directly affected persons or nongovernmental groups in FY 07-08, FY 08-09, and FY 09-10.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this rule will have no effect on competition and employment.

Jerry Phillips
Medicaid Director
0804#081

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

School Based Health Centers
(LAC 50:XV.Chapter 91)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt LAC 50:XV.Chapter 91 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Adolescent School Health Initiative Act of 1991, R.S. 40:31.3, directed the Department of Health and Hospitals, Office of Public Health to establish an adolescent school health initiative to facilitate and encourage development of

comprehensive health centers in public middle and secondary schools to provide preventive health services, counseling and acute health services to students. In compliance with the directives of the Adolescent School Health Initiative Act, the department established School Based Health Centers (SBHCs) to provide convenient access to preventive and primary health services for students who might otherwise have limited or no access to health care. The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated an Emergency Rule to allow for Medicaid coverage and reimbursement of mental health services provided to students by School Based Health Centers and to establish provisions for other Medicaid-covered services students already receive (*Louisiana Register*, Volume 33, Number 9). The bureau promulgated an Emergency Rule to amend the August 25, 2007, Emergency Rule to clarify the scope of services for School Based Health Centers (*Louisiana Register*, Volume 33, Number 12). This proposed Rule is being promulgated to continue the provisions of the December 20, 2007, Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 5. Early and Periodic Screening, Diagnosis and Treatment

Chapter 91. School Based Health Centers

Subchapter A. General Provisions

§9101. Purpose

A. The Adolescent School Health Initiative Act of 1991 authorized the development of an adolescent school based health initiative to facilitate and encourage the provision of comprehensive health centers in public middle and secondary schools.

B. School based health centers (SBHCs) provide convenient access to preventive and primary health care services for students who might otherwise have limited or no access to health care, and meet the physical and emotional health needs of adolescents at their school sites.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 40:31.3 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Subchapter B. Provider Participation

§9111. Provider Qualifications

A. The SBHC classification must be verified by the Office of Public Health, Adolescent School Health Program when applying for a Medicaid provider number.

1. Documentation of this verification must be provided upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 40:31.3 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§9113. Standards of Participation

A. School based health centers must comply with the applicable licensure, certification and program participation standards for all services rendered. The SBHC shall:

1. maintain an acceptable fiscal record keeping system that readily distinguishes one type of service from another type of service that may be rendered;

2. retain all records necessary to fully disclose the extent of services provided to recipients for five years from the date of service and furnish such records, and any payments claimed for providing such services, to the Medicaid Program upon request; and

3. abide by and adhere to all federal and state regulations and policy manuals.

B. The SBHC shall provide comprehensive primary medical, social and mental health services, as well as health education, promotion and prevention services to meet the psychosocial and physical health needs of students enrolled in the SBHC in the context of their family, culture and environment.

C. School based health centers shall acquire written parental consent in order to enroll a student as a patient.

D. The SBHC and all partners involved in service delivery must adhere to Health Insurance Portability and Accountability Act (HIPAA) privacy policies and procedures.

E. The SBHC must be enrolled as a KIDMED screening provider in addition to enrollment for providing any other services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 40:31.3 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Subchapter C. Services

§9121. Scope of Services

A. The Medicaid Program provides reimbursement for the following medically necessary health care services provided by school based health centers:

1. preventive health care services; and
2. evaluation, diagnosis and treatment of mental and behavioral health conditions.

3. - 6. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 40:31.3 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Subchapter D. Staffing Requirements

§9131. Minimum Staffing Requirements

A. School based health centers shall have one or more primary care providers on staff, including a:

- a. physician;
- b. physician assistant; or
- c. nurse practitioner.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§9133. Staffing Qualifications for Mental Health Services

A. Mental health services rendered in Medicaid-enrolled SBHCs shall be provided by the following licensed, professional staff:

1. psychiatrists;
2. psychologists;
3. clinical nurse specialists;
4. nurse practitioners;
5. licensed clinical social workers; or
6. licensed professional counselors.

B. Professionals providing mental health services must:

1. be licensed and provide services under the provisions and scope of their Louisiana Practice Act;
2. be enrolled in Louisiana Medicaid and linked to the SBHC where services are rendered; and
3. adhere to any additional training or educational requirements in the mental health area as set forth in Medicaid SBHC policy.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Subchapter E. Reimbursement

§9141. Reimbursement Methodology

A. Medicaid reimbursement is limited to medically necessary services that are covered by the Medicaid State Plan.

B. Medicaid covered services provided by SBHCs shall be reimbursed at the lower of either:

1. the provider's billed charges minus any third party coverage; or
2. the state's established schedule of fees for the service rendered, minus any third party coverage.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 by providing access to needed mental health services.

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

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, May 29, 2008, at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Alan Levine
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: School Based Health Centers

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

It is anticipated that the implementation of this proposed rule will result in an estimated increase in expenses to the state of \$97,253 for FY 07-08, \$191,480 for FY 08-09, and \$197,225 for FY 09-10. It is anticipated that \$544 (\$272 SGF and \$272 FED) will be expended in FY 07-08 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$246,950 for FY 07-08, \$482,746 for FY 08-09, and \$497,228 for FY 09-10. It is anticipated that \$272 will be expended in FY 07-08 for the federal administrative expenses for promulgation of this proposed rule and the final rule.

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

This rule, which continues the provisions of the December 20, 2007 emergency rule, proposes to allow for Medicaid coverage and reimbursement of mental health services (approximately 15,250 services annually) provided to students by School Based Health Centers and to establish provisions for other Medicaid-covered services students already receive. It is anticipated that implementation of this proposed rule will increase expenditures in the Medicaid Program by approximately \$343,659 for FY 07-08, \$674,226 for FY 08-09 and \$694,453 for FY 09-10.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this rule will have no effect on competition and employment.

Jerry Phillips
Medicaid Director
0804#082

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections Corrections Services

Probation and Parole—Emergency Plan for Sex Offenders
(LAC 22:I.405)

In accordance with the provisions of Acts 175, 285, and 683 of the 2006 Regular Session and Act 460 of the 2007 Regular Session, the Department of Public Safety and Corrections, Corrections Services, hereby gives notice of its intent to promulgate the contents of Section 405, Emergency Plan for Sex Offenders on Probation and Parole Supervision in the Event of an Emergency/Disaster.

The purpose of the aforementioned regulation is to establish the secretary's policy regarding the temporary and/or permanent displacement of sex offenders under the supervision of the Division of Probation and Parole in times of an emergency/disaster.

Title 22
CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT
Part I. Corrections

Chapter 4. Division of Probation and Parole

§405. Emergency Plan for Sex Offenders on Probation and Parole Supervision in the Event of an Emergency/Disaster

A. Purpose. To establish the secretary's policy regarding the temporary and/or permanent displacement of sex offenders under the supervision of the Division of Probation and Parole in times of an emergency/disaster.

B. Applicability: Assistant Secretary, Director, Deputy Director, Regional Directors, District Administrators, and District Supervisors of the Division of Probation and Parole. The Director of the Division of Probation and Parole is responsible for ensuring that appropriate written policy and procedures are in place to comply with the provisions of this regulation and to convey its contents to appropriate staff and to any and all sex offenders currently under supervision.

C. Policy

1. It is the secretary's policy to protect the public safety by establishing a uniform emergency procedure relative to the temporary and/or permanent displacement of sex offenders under the supervision of the Division of Probation and Parole.

D. Procedures

1. Requirements of the Division of Probation and Parole

a. The division shall establish a toll-free telephone number for sex offenders to call in the event of an emergency/disaster which results in their evacuation or temporary displacement.

b. In the event of an emergency/disaster resulting in the opening of shelters and/or other temporary housing in the state, the local probation and parole district office will post notices in any and all shelters within their geographical area. The notice shall include contact information for the local district office, the probation and parole toll-free telephone number and the department's website address.

c. Each district office will post notices in their office providing contact information in the event of an emergency/disaster resulting in the temporary displacement of sex offenders under supervision.

d. In the event a sex offender is evacuated/temporarily displaced from his approved in-state residence to a shelter/facility out of state, the supervising district will immediately notify all appropriate agencies through the interstate compact of the offender's location and take whatever action is appropriate in the case.

2. Requirements of the Sex Offender

a. Each sex offender under supervision will provide their probation and parole officer with at least one alternate address and telephone number in the event of an emergency/disaster that would require the offender to evacuate his approved residence. The sex offender is to evacuate to this alternate address in the event of an emergency/disaster unless he is prevented from doing so for a legitimate, bona fide reason.

b. Each sex offender under supervision must carry at all times a sex offender identification (ID) card provided by the division. The ID card will have the offender's name,

DOC number, offense, supervision expiration date, toll-free telephone number and the department's website address.

c. In the event a sex offender is evacuated/temporarily displaced from his approved residence due to an emergency/disaster he is to contact either the local probation and parole district office or the Headquarters Office via the sex offender toll-free telephone number and advise of his new location. The sex offender is also to contact the local sheriff's office and chief of police and inform those agencies of the following: he is a sex offender; his name; date of birth; social security number; new residence location; and last address of registration prior to the emergency. These contacts are to be made as soon as possible and no later than 24 hours after arriving at the new location. This process is to be repeated every time the offender moves to a new location. This process applies to all sex offenders no matter where they are displaced to, both within the state and out of state.

d. In the event a sex offender is evacuated/temporarily displaced due to an emergency/disaster to an emergency shelter, temporary housing, private residence or hotel the sex offender shall immediately notify the management of the facility or home owner of their sex offender status. The sex offender will adhere to all registration and notification requirements when appropriate.

e. A sex offender shall not be housed in shelters, hotels, Federal Emergency Management Agency (FEMA) trailer parks or any other housing funded by FEMA where the general population of evacuees is staying. The sex offender shall be provided shelter or housing in an alternative location separate and apart from where the general population of evacuees is staying.

f. These requirements shall be included in the sex offender contract signed by the sex offender. Failure of the sex offender to comply with the provisions of this regulation shall be considered a violation of supervision and subject the offender to revocation proceedings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:543.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 34:

Family Impact Statement

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

Written comments may be addressed to Melissa Callahan, Deputy Assistant Secretary, Department of Public Safety and Corrections, P.O. Box 94304, Baton Rouge, LA 70804, until 4:30 p.m. on May 9, 2008.

James M. Le Blanc
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Probation and Parole
Emergency Plan for Sex Offenders

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

The estimated cost to the state for implementation of the Emergency Plan for Sex Offenders on Probation and Parole

Supervision in the Event of an Emergency/Disaster is approximately \$52,800 for one month. Assumptions include that State Police will be operating the facility that will house the referenced offenders, that 10% of the 1,837 sex offenders statewide would be relocated; that four (4) officers per 12 hour shift would be needed for one month. Each 12 hour shift would cost \$220 per probation and parole officer, or \$880 for four officers for a 12 hour shift and \$1,760 for 4 officers for 24 hours. \$1,760 times 30 days equals \$52,800.

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

There is no estimated effect on revenue collections of state or local governmental units.

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

There is an indeterminable amount of estimated costs and/or economic benefits to directly affected persons or non-governmental groups. However, the proposed plan will protect the public safety by establishing a uniform emergency procedure relative to the temporary and/or permanent displacement of convicted sex offenders under the supervision of the Division of Probation and Parole.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

B.E. "Trey" Boudreaux III
Undersecretary
0804#038

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections Corrections Services

Probation and Parole—Supervised Release
of Sex Offenders upon Expiration of Sentence
(LAC 22:I.403)

In accordance with the provisions of Act 242 of the 2006 Regular Session, the Department of Public Safety and Corrections, Corrections Services, hereby gives notice of its intent to promulgate the contents of Section 403, Supervised Release of Sex Offenders upon Expiration of Sentence.

The purpose of the aforementioned regulation is to establish the secretary's policy regarding the supervised release of sex offenders upon expiration of sentence pursuant to legislative intent and the provisions of Act 242 of the 2006 Regular Session.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part I. Corrections

Chapter 4. Division of Probation and Parole

§403. Supervised Release of Sex Offenders upon Expiration of Sentence

A. Purpose. To establish the secretary's policy regarding the supervised release of sex offenders upon expiration of sentence pursuant to legislative intent and the provisions of Act 242 of the 2006 Regular Session.

B. Applicability—Assistant Secretary and the Director, Deputy Director, Regional Directors, and District Administrators of the Division of Probation and Parole. The director of the Division of Probation and Parole is

responsible for ensuring that appropriate written policy and procedures are in place to comply with the provisions of this regulation and to convey its contents to appropriate staff and any and all affected sex offenders under supervision pursuant to this regulation.

C. Policy

1. It is the secretary's policy that a uniform procedure be established and adhered to relative to the supervised release of certain sex offenders who have been released from the custody of the department upon expiration of sentence.

D. Definition

Probation and Parole Officer—shall include supervised release officers, Department of Public Safety and Corrections officers, and supervising officers as these terms are utilized in Act 242 of the 2006 Regular Session. Probation and parole officers are employed by the Division of Probation and Parole and have all the powers and duties of probation and parole officers as provided by law.

E. Procedures

1. A person convicted on or after August 15, 2006, of a sex offense as defined in R.S. 15:541(14.1) when the victim is under the age of 13 years, as stated on the bill of information, shall be placed upon supervised release for a period of five years when he is released from the custody of the Department of Public Safety and Corrections upon expiration of his sentence.

2. Supervised release shall be administered by the Division of Probation and Parole.

3. A probation and parole officer shall be assigned to those sex offenders placed upon supervised release pursuant to the provisions of this regulation. For those inmates releasing from a local jail facility, the offender's proposed residence plan shall be submitted by pre-class to the district of residence at least 90 days prior to release for approval by the Division of Probation and Parole. For those inmates releasing from a state correctional facility, the offender's proposed residence plan shall be submitted by the records office to the offender's district of residence at least 90 days prior to release for approval by the Division of Probation and Parole.

4. When a sex offender is placed on supervised release pursuant to the provisions of this regulation, the probation and parole officer shall:

a. inform the sex offender that he will be placed upon supervised release for a period of five years;

b. inform the sex offender of the conditions of supervised release as provided for in R.S. 15:561.5 (Paragraph E.5. of this Section);

c. require the sex offender to read and sign a form stating the fact that the sex offender will be placed upon supervised release and that the conditions of the supervised release have been explained to him.

5. A sex offender placed on supervised release pursuant to the provisions of this regulation shall comply with the following conditions:

a. report immediately to the Division of Probation and Parole District Office which is listed on the certificate of supervised release;

b. establish a schedule of a minimum of one meeting per month with the probation and parole officer to provide the officer with his current address, place of employment and verification of compliance with all

registration and notification requirements of a sex offender as required by statute;

c. be subject to periodic visits with the probation and parole officer without prior notice;

d. abide by any curfew set by the probation and parole officer;

e. refrain from using or possessing any controlled dangerous substance or alcoholic beverage and submit, at the sex offender's expense, to screening, evaluation, and treatment for controlled dangerous substances or alcohol abuse as directed by the probation and parole officer;

f. refrain from using or possessing any pornographic or sexually explicit materials. *Pornographic or sexually explicit materials* means any paper, magazine, book, newspaper, periodical, pamphlet, composition, publication, photograph, drawing, phonograph record, album, cassette, wire or tape recording, compact disc, digital versatile disc, digital video disc, or any other form of visual technology or other similar tangible work or thing which is devoted to or principally consists of descriptions or depictions of illicit sex or sexual immorality, the graphic depiction of sex, including but not limited to the visual depiction of sexual activity or nudity, ultimate sexual acts, normal or perverted, actual, simulated, or animated, whether between human beings, animals, or an animal and a human being;

g. report to the probation and parole officer when directed to do so;

h. not associate with persons known to be engaged in criminal activities or with persons known to have been convicted of a felony without written permission of the probation and parole officer;

i. in all respects, conduct himself honorably, work diligently at a lawful occupation, and support his dependents, if any, to the best of his ability;

j. promptly and truthfully answer all inquiries directed to him by the probation and parole officer.

k. live and remain at liberty and refrain from engaging in any type of criminal conduct;

l. not have in his possession or control any firearms or dangerous weapons;

m. submit himself to available medical, psychiatric or mental health examination and treatment for offenders convicted of sex offenses when deemed appropriate and ordered to do so by the probation and parole officer;

n. defray the cost, or any portion thereof, of the supervised release by making payments to the department in a sum and manner determined by the department, based upon the offender's ability to pay;

o. submit a residence plan for approval by the probation and parole officer;

p. comply with such other specific conditions as are appropriate, stated directly and without ambiguity so as to be understandable to a reasonable man.

6. Sex offenders on supervised release pursuant to this regulation shall be subject to the same probation and parole policies and procedures as any other sex offender on probation or parole supervision.

7. Sex offenders on supervised release who fail to abide by the conditions of their release and supervision as provided for in Paragraph E.5. shall be referred to the district attorney for prosecution of the new charge.

8. Upon a first conviction, the sex offender shall be fined not more than one thousand dollars and imprisoned with hard labor for not less than two years nor more than 10 years without benefit of parole, probation, or suspension of sentence.

9. Upon a second or subsequent conviction, the sex offender shall be fined \$3,000 and imprisoned with hard labor for not less than five years nor more than 20 years without benefit of parole, probation, or suspension of sentence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:561.6.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 34:

Family Impact Statement

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

Written comments may be addressed to Melissa Callahan, Deputy Assistant Secretary, Department of Public Safety and Corrections, P.O. Box 94304, Baton Rouge, LA 70804, until 4:30 p.m. on May 9, 2008.

James M. Le Blanc
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Probation and Parole—Supervised Release of Sex Offenders upon Expiration of Sentence

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

The estimated cumulative cost to the state for implementation of the Supervised Release of Sex Offenders upon Expiration of Sentence is approximately \$12,766 for three fiscal years, assuming 3 months implementation in FY 07-08. Based upon information provided by the Division of Probation and Parole, the total projected fiscal impact for FY07-08 for 4 offenders would be \$982; for FY 08-09 for 1 additional offender, or 5 cumulative offenders is \$4,910; and for FY 09-10 for 2 additional offenders, or 7 cumulative offenders is \$6,874. Assumptions include the cost per day per offender supervised of \$2.69 per Act 18 funding, or approximately \$982 per offender annually and that the offender would pay \$53 per month in supervision fees, or 636 annually. The net SGF cost per offender to Probation and Parole is projected at \$346 annually (\$982 less \$636). The total projected cost per offender to Probation and Parole (SGR and SGR) is \$982 per offender.

Projected fiscal impact is for sex offenders whose offense date was prior to August 15, 2006 but whose conviction was on or after August 15, 2006 and whose victim was under the age of thirteen.

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

Parole fees would be collected at \$53 per month per offender, or \$636 annually per offender. Self-generated revenues are based on supervision fees being collected from 4 offenders in FY 07-08, 5 offenders in Fy 08-08, and 7 offenders in FY 09-10.

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

There is an indeterminable amount of estimated costs and/or economic benefits to directly affected persons or non-governmental groups. However, the proposed plan will protect

the public safety by establishing a uniform procedure relative to the supervised release of sex offenders who have been released from custody of the Department upon expiration of sentence.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

B.E. "Trey" Boudreaux, III
Undersecretary
0804#037

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Policy Services Division**

Requirement for Tax Preparers to File
Income Tax Returns Electronically
(LAC 61:III.1501)

Under the authority of R.S. 47:1511 and 47:1520 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:III.1501 to provide for the waiver of the electronic filing requirement for tax preparers to file certain individual income tax returns electronically.

The proposed amendment to LAC 61:III.1501 defines "undue hardship", and clarifies that the penalty imposed by R.S. 47:1520(B) for failure to comply with the electronic filing requirement does not apply to the requirement for tax preparers to file income tax returns electronically.

Title 61

REVENUE AND TAXATION

Part III. Administrative Provisions and Miscellaneous

Chapter 15. Electronic Filing and Payments

§1501. Requirement for Tax Preparers to File Income Tax Returns Electronically

A. Definitions

Authorized Individual Income Tax Return—any individual tax return that can be filed electronically.

Filed Electronically—filing a tax return by electronic means using software that has been approved for electronic filing by the Louisiana Department of Revenue.

Individual Income Tax Return—any tax return required to be filed by R.S. 47:101.

Tax Preparer—a person or entity that prepares for compensation or employs one or more persons to prepare for compensation any Louisiana individual income tax return.

a. A tax preparer is an entity that is assigned a Tax Identification Number and includes all of the entity's locations.

b. The combined total of the returns prepared at all of the tax preparer's locations will be used to determine whether or not the tax preparer is subject to the electronic filing mandate.

B. Individual income tax returns prepared by a tax preparer that prepares more than 100 Louisiana individual income tax returns during any calendar year are required to be filed electronically as follows.

1. For returns due on or after January 1, 2008, 30 percent of the authorized individual income tax returns must be file electronically.

2. For returns due on or after January 1, 2010, 60 percent of the authorized individual income tax returns must be filed electronically.

3. For returns due on or after January 1, 2012, 90 percent of the authorized individual income tax returns must be filed electronically.

C. A tax preparer that is subject to the electronic filing mandate must be accepted in the IRS e-file Program and have an electronic filer identification number (EFIN) and use software that has been approved for e-file by the Louisiana Department of Revenue.

D. Once a tax preparer is subject to the electronic filing mandate, the tax preparer must continue to e-file the required percentage of authorized individual income tax returns in future years regardless of the number of returns filed.

E. Waiver of Electronic Filing Requirement

1. The secretary may waive the electronic filing requirement if it is determined that complying with the requirement would cause an undue hardship.

2. For the purpose of waiver of the electronic filing requirement, inability by the tax preparer to obtain broadband access at the location where the tax returns are prepared will be considered an undue hardship and waiver of the requirement will be granted.

F. The penalty imposed by R.S. 47:1520(B) for failure to comply with the electronic filing requirement does not apply to the requirement for tax preparers to file income tax returns electronically.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and R.S. 47:1520.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 33:2463 (November 2007), amended LR 34:

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the following Family Impact Statement is submitted to be published with the Notice of Intent in the *Louisiana Register*. A copy of this statement will also be provided to our legislative oversight committees. Implementation of this proposed Rule will have no effect on:

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

Interested persons may submit data, views, or arguments, in writing to Leonore Heavey, Senior Policy Consultant, Policy Services Division, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., Monday, May 26, 2008. A public hearing will be held on Tuesday, May 27, 2008, at 10 a.m. in the River Room Conference Room on the Seventh Floor of the LaSalle Building at 617 North Third Street, Baton Rouge, LA 70802-5428.

Cynthia Bridges
Secretary

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

**RULE TITLE: Requirement for Tax Preparers to File
Income Tax Returns Electronically**

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

There are no implementation costs or savings to state or local government units from the proposed rule changes. The proposed rule defines the term "undue hardship" and explicitly states that penalties imposed by R.S. 47:1520(B) for failure to comply with the electronic filing do not apply to tax preparers.

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

There are no effects on revenue collections of state or local governmental units from the proposed rule changes. The proposed rules define the term "undue hardship" and explicitly state that penalties imposed by R.S. 47:1520(B) for failure to comply with the electronic filing do not apply to tax preparers. The Department of Revenue has not collected these penalties on preparers with significant internet limitations and never intended to do so.

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

The proposed rule will allow tax preparers without broadband access who obtain a hardship waiver to file paper returns and avoid costs for technology purchases and services.

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

This proposed rule should not affect competition or employment.

Cynthia Bridges
Secretary
0804#056

Robert A. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Policy Services Division**

**State Sales Tax Holiday on Purchases of Hurricane-
Preparedness Items (LAC 61:I.4423)**

Under the authority of R.S. 47:1511 and Sec. 2 of Act 429 of the 2007 Regular Session, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue proposes to adopt LAC 61:I.4423 to provide for the definition of the following enumerated terms for purposes of the impending state sales tax holiday.

This Rule is necessary to allow the secretary to administer the state sales tax holiday for the tax year 2008 and beyond. R.S. 47:305.58 as enacted by Act 429 of the 2007 Regular Session of the Legislature allows for an annual state sales tax exemption on sales made on the last Saturday and Sunday of each May of certain hurricane-preparedness items or supplies. Because Act 429 does not define several terms as they are used in the Act, the Department of Revenue is authorized to define those terms and set a procedure for application of the Act.

Title 61

REVENUE AND TAXATION

**Part I. Taxes Collected and Administered by the
Secretary of Revenue**

Chapter 44. Sales and Use Tax Exemptions

**§4423. State Sales Tax Holiday on Purchases of
Hurricane-Preparedness Items**

A. Revised Statute 47:305.58 allows for an exemption of the state sales tax on sales made on the last Saturday and Sunday of each May of certain hurricane-preparedness items or supplies.

1. Tax-free purchases are authorized on the first \$1,500 of the sales price of each hurricane-preparedness item.

2. The sales tax exemption only applies to purchases of the following items or supplies:

a. any portable self-powered light source, including candles, flashlights and other articles of property designed to provide light;

b. any portable self-powered radio, two-way radio, or weather band radio;

c. any tarpaulin or other flexible waterproof sheeting;

d. any ground anchor system or tie-down kit;

e. any gas or diesel fuel tank;

f. any package of AAA-cell, AA-cell, C-cell, D-cell, 6 volt, or 9-volt batteries, excluding automobile and boat batteries;

g. any cell phone battery and any cell phone charger;

h. any nonelectric food storage cooler;

i. any portable generator used to provide light or communications or preserve food in the event of a power outage;

j. any *storm shutter device*, as defined by R.S. 47:305.58;

k. any carbon monoxide detector; and

l. any reusable freezer pack such as "blue ice."

3. The state sales tax exemption provided does not apply to hurricane-preparedness items or supplies sold at any "airport," "public lodging establishment or hotel," "convenience store," or "entertainment complex."

B. Definitions

Airport—any area of land or water, except a restricted landing area, which is designed for the landing and takeoff of aircraft, whether or not facilities are provided for the sheltering, servicing, or repairing of aircraft or for receiving or discharging passengers or cargo; all appurtenant areas used or suitable for airport buildings or other airport facilities; and all appurtenant rights of way including easements through or other interest in air space over land or water and other protection privileges, the acquisition or control of which is necessary to insure safe approaches to the landing areas and efficient operation thereof.

Hotel—any establishment engaged in the business of furnishing sleeping rooms, cottages, or cabins to transient guests, where such establishment consists of six or more sleeping rooms, cottages, or cabins at a single business location. The term *public lodging establishment* is

interpreted to include other businesses that offer lodging to transient guests for compensation, including "bed and breakfast" businesses.

Convenience Store—retail businesses that are smaller in square footage than full-line grocery stores, discount stores, department stores, or pharmacies, and that place primary emphasis on providing the public convenient locations from which to quickly purchase from limited lines of consumable products.

a. In order to be considered a *convenience store*, sales must consist primarily of motor fuel and lubricants; snack foods, including sandwiches, hot dogs, candy, nuts, and chips; beer; liquor; wine; tobacco products; soft drinks; fishing baits; newspapers; and magazines, and the sales of the business must be sufficiently diversified within these product lines so that the business is not classified as a specialty retailer such as a liquor store, sandwich shop, newsstand, or tobacco shop.

b. *Convenience stores* typically have the following characteristics:

- i. inside sales areas that are less than 5,000 sq. ft.;
- ii. off-street parking and/or convenient pedestrian access; and
- iii. extended hours of operation with many open 24 hours, seven days a week.

Entertainment Complex—a premise that is a site for the performance of musical, theatrical, or other entertainment; country clubs; tennis clubs; swimming clubs; bowling establishments; skating rinks; movie theatres; amusement parks; zoos; or similar entertainment-oriented businesses.

C. Procedure for State Sales Tax Holiday

1. A taxpayer may make state sales tax-free purchases on the first \$1,500 of the sales price on each of the above enumerated hurricane-preparedness items or supplies on the last Saturday and Sunday of each May.

2. The state sales tax holiday shall not apply to any vendor defined under Subsection B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and Sec. 2 of Act 429 of the 2007 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 34:

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the Notice of Intent in the Louisiana Register. A copy of this statement will also be provided to our legislative oversight committees.

1. The effect on the stability of the family. The proposed Rule will not affect the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. This proposed Rule will not affect the authority and rights of parents regarding education and supervision of children.

3. The effect on the functioning of the family. This Rule will not affect the functioning of the family.

4. The effect on family earnings and family budget. This Rule will not affect the family earnings or family budget.

5. The effect on the behavior and personal responsibility of children. This Rule will not affect the behavior or personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed Rule. No, this action is strictly an action to provide for an annual state sales and use tax exemption on hurricane-preparedness items.

Interested persons may submit data, views, or arguments, in writing to Ray Tangney, Senior Policy Consultant, Policy Services Division, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m. on Wednesday, May 28, 2008. A public hearing will be held on Thursday, May 29, 2008 at 1:30 p.m. in the River Room Conference Room on the 7th Floor of the LaSalle Building at 617 North Third Street, Baton Rouge, LA 70802-5428.

Cynthia Bridges
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: State Sales Tax Holiday on Purchases of Hurricane-Preparedness Items

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

Act 429 of the 2007 Regular Session enacted R.S. 47:305.58 which provides for an annual state sales tax holiday on the first \$1,500 of certain hurricane-preparedness items purchased during the last Saturday and Sunday of each May. This proposed rule provides guidance concerning R.S. 47:305.58 and provides definitions of the terms "airport," "public lodging establishment or hotel," "convenience store," and "entertainment complex" for purposes of participation in the sales tax holiday.

Implementation of this proposed rule will have minimal impact on the Department of Revenue's costs. Costs will be incurred to prepare news releases and inform taxpayers about the sales tax holiday. The proposed rule will have no costs or savings to local governmental units because the holiday does not pertain to local sales and use taxes.

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

The two-day state sales tax holiday for certain hurricane supply items enacted under R.S. 47:305.58 is estimated to reduce state sales tax collections by \$2 million per year. The holiday does not affect local sales and use taxes.

The estimated \$2 million reduction in state sales tax collections is based on an analysis conducted by the Department of Revenue after the 2005 sales tax holiday (three days in December 2005, authorized by Act 9 of the 2005 First Extraordinary Session). That analysis estimated state sales tax revenues were reduced by approximately \$11-\$12 million during the three-day holiday. The sales tax holiday in 2005 was different from this one in several important areas. The sales tax holiday in 2005 applied to the first \$2,500 of the sales or cost price of consumer purchases of tangible personal property purchased during a three-day period. The limit per item for this holiday is \$1,500 over two days. Furthermore, this holiday limits purchases to specific hurricane-preparedness items and allows exclusion of purchases from certain locations including airports, public lodging establishments, entertainment complexes and convenience stores. These limitations will likely decrease the potential revenue losses to the state compared to the 2005 sales tax holiday. Additionally, the 2005 sales tax holiday allowed sales tax exemptions for certain businesses

located in Hurricane Katrina or Hurricane Rita areas. This holiday has no such provision. The revenue loss associated with the business purchase provision in the 2005 holiday was estimated to total approximately \$3 million, leaving \$9 million of nonbusiness related sales tax loss. Given the lower pricing threshold, the exclusion of convenience store sales, the limited set of items eligible for exemption, and the shorter time span, state revenue loss associated with this proposal is estimated to be in the \$2 million range.

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

Taxpayers that make purchases of qualifying hurricane-preparedness items on the last Saturday and Sunday of each May will receive the economic benefit. Tax savings on qualified purchases is estimated to be approximately \$2 million per year. In addition, dealers engaged in the sale of qualifying hurricane-preparedness items may see a modest increase in sales during the two-day sales tax holiday as consumers take advantage of the state sales tax holiday.

The sales tax holiday enacted by R.S. 47:305.58 will likely result in some cost to retailers who must reprogram their cash registers for tax exempt items during the two-day sales tax holiday period. These retailers may also need to reprogram their registers again at the end of the holiday period. The estimated cost for reprogramming is expected to be minimal since many registers already include a tax-exempt key or some other method for not charging the state sales tax.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule should not affect competition or employment.

Cynthia Bridges
Secretary
0804#057

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of State
Elections Division**

Election Poll Workers (LAC 31:I.301)

Under the authority of R.S. 18:24 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the State Board of Election Supervisors proposes to repeal the Section regarding the testing of commissioners and commissioners-in-charge.

Title 31

ELECTIONS

Part I. Election Process

Chapter 3. Commissioners and Commissioners-in-Charge

§301. Testing

A. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:24.

HISTORICAL NOTE: Promulgated by the Secretary of State, Board of Elections Supervisors, LR 8:266 (May 1981), repealed LR 34:

Family Impact Statement

The proposed repeal of LAC 31:I.301 regarding the testing of commissioners and commissioners-in-charge should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation,

stability, and autonomy. Specifically, there should be no known or foreseeable effect on:

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

Interested persons may submit written comments to Angie Rogers LaPlace, Commissioner of Elections, Department of State, P.O. Box 94125, Baton Rouge, LA 70804-9125. She will be responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, May 27, 2008 at 10 a.m. in the XII United Plaza Building (formerly the Broadwing Building), Auditorium, First Floor at the rear of the building, 8585 Archives Avenue, Baton Rouge, LA. At that time, all interested persons will be afforded an opportunity to submit data, views, or arguments either orally or in writing. The deadline for the department to receive written comments is 4:30 p.m. on Wednesday, May 28, 2008, after the public hearing.

Jay Dardenne
Secretary of State

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Election Poll Workers**

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

With the exception of the cost of \$272 for printing the notice of intent and rule in the *Louisiana Register*, this rule will not result in an increase or decrease in implementation costs or savings to state or local governmental units. The proposed rule repeals a rule previously adopted by the State Board of Election Supervisors for commissioners (election poll workers) in May 1981. According to the provisions of R.S. 18:421, it is the responsibility of the Secretary of State, not the State Board of Election Supervisors, to adopt rules for commissioners.

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

There will be no effect on revenue collections of state or local government units.

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

The proposed rule repeal does not have any cost associated with it and will not directly impact persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no impact of the proposed rule on competition and employment.

Charles R. Davis
Undersecretary
Management and Finance
0804#090

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of State Elections Division

Registrars of Voters
(LAC 31:II.103)

Under the authority of R.S. 18:24, R.S. 18:53, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the State Board of Election Supervisors proposes to amend uniform rules and regulations for the removal of a registrar of voters for cause set forth in Section 103.

Title 31 ELECTIONS

Part II. Voter Registration

Chapter 1. Registrars of Voters

§103. Removal of Registrar of Voters for Cause

A. A proceeding for the removal of a registrar shall be commenced by the state board of election supervisors upon the receipt of a resolution from a parish governing authority which includes the following information:

1. accusations of willful misconduct relating to the registrar's official duty, willful and persistent failure to perform his duties, persistent public conduct prejudicial to the administration of the laws relative to the registration of voters that brings the office into disrepute, or conviction of a felony; and

2. favorable adoption of the resolution by at least two-thirds of the membership of the parish governing authority.

B. A proceeding for the removal of a registrar may be commenced by the state board of election supervisors upon the written complaint filed with the state board of election supervisors by one or more natural persons of legal age who reside within the parish served by the registrar whose removal is sought, which complaint includes the following information:

1. the name and mailing address of each complainant;

2. the name of the registrar whose removal is sought and the parish he serves;

3. the reasons the removal is necessary;

4. a full statement of the facts, commissions or omissions upon which the complaint is based, including the names of persons, dates, places and circumstances, so as to fully inform the registrar as to the factual basis for the complaint. No evidence of any fact not alleged in the complaint shall be brought before the board during the hearing;

5. a clear statement that the complainant is seeking the removal of the registrar from office; and

6. signature of each complainant and verified under oath before a notary or two witnesses.

C. The original resolution or complaint shall be filed with the chairman of the state board of election supervisors by personal delivery to his office, or by regular or certified mail. The chairman of the state board of election supervisors shall provide notice of the resolution or complaint to the accused registrar by certified mail, return receipt requested with restricted delivery to addressee only.

D. Upon receipt of the resolution or complaint, the chairman of the board shall examine each resolution or complaint and may reject the resolution or complaint for

filing if he finds that it fails to state a cause of action for removal pursuant to R.S. 18:53 or fails to comply with the filing requirements herein. If the chairman rejects the filing of the resolution or complaint, he shall notify the board, the parish governing authority or complainant and the registrar accordingly. If the chairman accepts the filing of the resolution or complaint, he shall notify the board, the registrar, and either the parish governing authority or the complainant of the scheduled hearing date, time and place, to be set no later than 30 days from receipt of the complaint. All notices to the registrar and parish governing authority or complainant shall be by certified mail return receipt requested with restricted delivery. The notice of hearing shall be in compliance with the provisions of R.S. 49:955.

E. If the chairman rejects the filing of the resolution or complaint, the parish governing authority or complainant may amend the resolution or complaint to state a claim within 10 days of the mailing date shown thereon of the rejection of the filing. If the parish governing authority or complainant fails to file an amended resolution or complaint within the time allowed, the chairman of the board shall dismiss the resolution or complaint.

F. The board may consolidate complaints if they relate to common issues or to the same actions or events.

G. The board shall compile and maintain an official record in connection with each resolution or complaint, containing at a minimum a copy of the following:

1. the resolution or complaint, and any board authorized amendments;

2. any written submissions by the parish governing authority, respondent(s), or other interested persons, including any responses authorized by the board;

3. a written report of any investigation conducted or commissioned by the board;

4. copies of all notices and correspondence to or from the board in connection with the resolution or complaint;

5. originals or copies of any tangible evidence produced at any hearing conducted pursuant to these rules;

6. original tape recording produced at any hearing conducted pursuant to these rules and a copy of any hearing transcript; and

7. a copy of any final decision issued by the board.

H. The respondent registrar may file a written answer to the resolution or complaint, notarized or witnessed as provided for herein, prior to the hearing wherein he may admit or deny specifically each of the allegations of the resolution or complaint, and otherwise answer to the resolution or complaint. The board for good cause shown may allow an extension of the time period for answering, if requested by the respondent.

I. Postponements or continuances of any hearing are subject to board approval.

J. Either party or the board, at their cost, may order copies of the transcription of the testimony using the state's uniform fee schedule for copies of public records.

K. The hearing shall be conducted in accordance with the provisions of the Administrative Procedure Act. A complainant, respondent, or other person who testifies or presents evidence at the hearing may, but need not, be represented by an attorney.

L. The board shall render its decision within 10 days after the hearing. All decisions shall comply with the

requirements of R.S. 49:958. The decision shall become final 30 days after the mailing date shown thereon, unless a rehearing has been timely requested by either party, or unless the registrar, whose removal has been ordered, files a petition for judicial review by trial de novo in the Nineteenth Judicial District Court before the expiration of the 30-day period.

M. A rehearing may be requested within 10 days from the date of the board's written decision on the grounds listed in R.S. 49:959, and if requested timely, the board shall follow the procedures for rehearing in accordance with R.S. 49:959.

N. If the respondent registrar requests a rehearing, the decision upon rehearing, or denial thereof, shall become final 30 days after the mailing date shown thereon, unless the registrar files a petition for judicial review by trial de novo in the Nineteenth Judicial District Court before the expiration of the 30-day period.

O. All filings and correspondence shall be addressed to State Board of Election Supervisors, Secretary of State, Department of State, P.O. Box 94125, Baton Rouge, LA 70804-9125.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:24 and R.S. 18:53.

HISTORICAL NOTE: Promulgated by the Department of State, Board of Election Supervisors, LR 5:328 (October 1979), amended LR 34:

Family Impact Statement

The proposed Rule LAC 31:II.103 regarding the removal of registrars of voters for cause should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability, and autonomy. Specifically, there should be no known or foreseeable effect on:

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

Interested persons may submit written comments to Angie Rogers LaPlace, Commissioner of Elections, Department of State, P.O. Box 94125, Baton Rouge, LA 70804-9125. She will be responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, May 27 at 10 a.m. in the XII United Plaza Building (formerly the Broadwing Building), Auditorium, First Floor at the rear of the building, 8585 Archives Avenue, Baton Rouge, LA. At that time, all interested persons will be afforded an opportunity to submit data, views, or arguments either orally or in writing. The deadline for the department to receive written comments is 4:30 p.m. on Wednesday, May 28, 2008, after the public hearing.

Jay Dardenne
Secretary of State

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Registrars of Voters

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

With the exception of the cost of \$272 for printing the notice of intent and rule in the *Louisiana Register*, this rule will not result in an increase or decrease in implementation costs or savings to state or local governmental units. The original rule regarding the removal of a registrar of voters was adopted in October 1979. On February 6, 2008, the State Board of Election Supervisors recommended the attached Notice of Intent for the removal of a registrar of voters in accordance with the current legislative requirements contained in the *Election Code*.

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

There will be no effect on revenue collections of state or local government units.

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

The proposed rule repeal does not have any cost associated with it and will not directly impact persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no impact of the proposed rule on competition and employment.

Charles R. Davis
Undersecretary
Management and Finance
0804#089

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Fur Trapping Seasons (LAC 76:V.129)

The Wildlife and Fisheries Commission does hereby advertise its intent to amend the fur trapping regulations for the state of Louisiana.

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 1. Wild Quadrupeds

§129. Fur Trapping Seasons

A. Season Dates. The statewide open trapping season for nongame quadrupeds shall open on November 20 and close on March 31. The secretary shall be authorized to close, extend, delay, or reopen the season as biologically justifiable.

B. Bobcat and Otter Tagging Requirements

1. To obtain federal approval to export bobcat and river otter out of the United States, the Department of Wildlife and Fisheries is required to ensure that only Louisiana trapped river otter and bobcat are tagged with Louisiana export tags. To accomplish this, a special

possession tag will be made available to fur buyers, fur dealers and trappers.

2. A blue tag for river otter and a red tag for bobcat must be filled out by the trapper at the time the pelt is sold. The information required includes trapper name, trapper license number, parish caught in and date trapped. No bobcat or river otter pelts shall be purchased from a trapper or be in the possession of a fur buyer without a possession tag until they are submitted to the department in exchange for export tags. Dealers shall not purchase bobcat or river otter pelts without an accompanying possession tag.

3. No bobcat or river otter pelt shall be shipped from the state without an export tag attached. Dealers will obtain export tags for bobcat and river otter by providing the department with one completed possession tag for each pelt to be shipped from the state. It shall be illegal to falsify possession tags or attach Louisiana export tags to out-of-state bobcat and river otter pelts. Once possession tags have been received and counted by department personnel, export tags will be mailed immediately. Trappers shipping bobcat and river otter out-of-state must provide completed possession tags to the department in order to receive export tags.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(10) and R.S. 56:259(A).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 33:1882 (September 2007), amended LR 34:

Family Impact Statement

In accordance with Act #1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connect with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Interested persons may submit comments relative to the proposed Rule to Philip E. Bowman, Fur and Refuge Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 prior to Thursday, June 5, 2008.

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and final Rule, including but not limited to, the filing of the Fiscal and Economic Impact Statement, the filling of

the Notice of Intent and Final Rule and the preparation of reports and correspondence to other agencies of government.

Patrick C. Morrow
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Fur Trapping Seasons**

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

There will be no state or local governmental implementation costs or savings associated with this proposed rule change.

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

Revenue collections of state or local governmental units will not be impacted.

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

The proposed rule will permanently establish bobcat and river otter pelt tagging requirements for commerce. Trappers will be required to obtain a possession tag for each Louisiana river otter and bobcat pelt they intend to sell. Fur dealers and buyers will be prohibited from purchasing a Louisiana bobcat or river otter pelt without an accompanying possession tag. In addition, an export tag will have to be obtained for each pelt that is shipped out-of-state.

The department has, for many years, issued special Louisiana possession and export tags to fur buyers, fur dealers and trappers, but no rule has ever been published in Title 76 to permanently establish tagging regulations for bobcat and river otter pelts. Since the tags are free and have been issued for years to fur buyers, fur dealers and trappers, the proposed action is anticipated to have no impact on persons or non-governmental groups engaged in commerce activities.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no effect on competition and employment in the public and private sectors.

Wynette Kees
Fiscal Officer
0804#040

Robert E. Hosse
Staff Director
Legislative Fiscal Office

Administrative Code Update

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LAC Title	Part.Section	Effect	Location LR 33 Month Page	LAC Title	Part.Section	Effect	Location LR 33 Month Page		
7	XXXV.101,137	Amended	Mar. 408		XLV.151	Repealed	Feb. 243		
28	I.Chapters 1-13	Adopted	Mar. 409	46	XLV.1503,1508-1510,1517,1519	Amended	Feb. 243		
	IV.301,505,1101,1103,1107	Amended	Feb. 234		XLV.4231-4239	Adopted	Mar. 438		
	IV.1201-1213,1301	Amended	Feb. 234		XLV.4501,4507,4509	Amended	Feb. 243		
	IV.1401-1419,1701	Amended	Feb. 234	XLVII.3355	Amended	Mar. 440			
	XXXIII.301	Repromulgated	Jan. 64	48	I.Chapter 78	Adopted	Jan. 80		
	LXXXIX.303,2103,2703	Amended	Feb. 229		I.15901-15903	Adopted	Jan. 89		
	LXXXIX.3301,3303	Adopted	Feb. 229		V.6303	Amended	Mar. 442		
	LXXXIII.301,519,2401	Amended	Mar. 430	50	III.2525	Adopted	Feb. 253		
	LXXXIII.305,309,311,501-509	Repealed	Mar. 430		XV.4305	Amended	Mar. 441		
	LXXXIII.703,4302,4310,4313	Amended	Mar. 427		XV.12917	Amended	Feb. 253		
	CXI.303,305,312,315,701	Amended	Jan. 65		XV.16105	Amended	Mar. 441		
	CXI.305,1801	Amended	Mar. 431		XXI.3901	Amended	Feb. 251		
	CXI.1351,1355	Amended	Jan. 65		XXI.Chapter 91	Adopted	Feb. 251		
	CXXXI.305	Amended	Feb. 233		XXI.12101	Amended	Feb. 250		
	CXXXI.311	Amended	Feb. 233		XXVI.14301	Amended	Feb. 252		
CXXXI.347,403,421	Amended	Mar. 432	XXIX.901		Amended	Jan. 87			
CXXXI.401	Repromulgated	Mar. 432	XXIX.915,917,919,921,923		Repealed	Jan. 87			
CXXXI.410	Repealed	Mar. 432	XXIX.925,935,945,963	Amended	Jan. 87				
33	I.3931	Amended	Jan. 69	51	XXXIX.901	Amended	Jan. 87		
	III.111	Amended	Jan. 69		II.905	Amended	Mar. 444		
	III.701,703,711	Amended	Mar. 433		IX.127,145,319,321	Amended	Mar. 444		
	III.2121,2125,2145,2147,2201	Amended	Jan. 69	XXIII.1109	Amended	Mar. 444			
	V.109,1113,1127,1315,1319,1517	Amended	Mar. 433	55	I.301	Amended	Jan. 94		
	V.709	Amended	Jan. 68		VI.101,301,703	Amended	Jan. 93		
	V.4397,4999	Amended	Jan. 69		VI.905	Adopted	Jan. 93		
	IX.2707,4905,6125	Amended	Jan. 69	56	V.1107	Amended	Mar. 435		
	XI.707	Amended	Jan. 69		58	I.113	Adopted	Jan. 97	
	XV.493	Amended	Feb. 243		I.301,303,501,503	Amended	Mar. 446		
37	XIII.Chapter 127	Adopted	Jan. 90		I.3505	Repealed	Jan. 97		
	43	I.901-904	Adopted	Feb. 254	61	I.1305	Amended	Mar. 446	
		I.907,909,911,1301-1305	Repealed	Feb. 254		67	III.5125,5127	Adopted	Jan. 95
		I.925-851	Amended	Feb. 254			III.5593	Adopted	Feb. 277
		I.1001-1033	Adopted	Feb. 254			III.5595	Adopted	Feb. 276
V.101,103,301		Amended	Feb. 254	76		VII.367	Amended	Jan. 97	
46	V.Chapter 7	Adopted	Jan. 74						
	V.Chapter 30	Adopted	Mar. 435						
	V.Chapter 36	Repealed	Mar. 435						
	XXI.901	Amended	Mar. 434						
	XXV.Chapters 1-7	Amended	Feb. 246						

Potpourri

POTPOURRI

Department of Agriculture and Forestry Horticulture Commission

Annual Quarantine Listing—2008

In accordance with LAC 7:XV.107 and 109, we are hereby publishing the annual quarantine.

1.0 Sweetpotato Weevil (*Cylas formicarius elegantulus* Sum)

(a) In the United States: the states of Alabama, California, Florida, Georgia, Mississippi, North Carolina, South Carolina, Texas and any other state found to have the sweetpotato weevil.

(b) In the State of Louisiana:

1) The entire parishes of: Acadia, Allen, Ascension, Assumption, Avoyelles, Beauregard, Bienville, Bossier, Caddo, Calcasieu, Cameron, DeSoto, East Baton Rouge, East Feliciana, Evangeline, Grant, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Natchitoches, Orleans, Plaquemines, Pointe Coupee, Rapides, Red River, Sabine, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermilion, Vernon, Washington, Webster, West Baton Rouge, West Feliciana.

2.0 Pink Bollworm (*Pectinophora gossypiella* Saunders)

Pink bollworm quarantined areas are divided into generally infested and/or suppressive areas as described by USDA-PPQ.

Arizona

(1) Generally infested area: the entire state.

California

(1) Generally infested area: The entire counties of: Imperial, Inyo, Los Angeles, Orange, Riverside, San Bernardino, and San Diego.

(2) Suppressive area: The entire counties of: Fresno, Kern, Kings, Madera, Merced, San Benito, and Tulare.

New Mexico

(1) Generally infested area: The entire state.

Texas

(1) Generally infested area: The entire state.

3.0 Phytophagous Snails

The states of Arizona and California.

4.0 Sugarcane Pests and Diseases

All states outside of Louisiana.

5.0 Lethal Yellowing

The state of Florida.

6.0 Texas Phoenix Decline

The state of Texas.

7.0 Tristeza, Xyloporosis, Psorosis, Exocortis.

All citrus growing areas of the United States.

8.0 Burrowing Nematode (*Radopholus similis*)

The States of Florida and Hawaii and the Commonwealth of Puerto Rico.

9.0 Oak Wilt (*Ceratocystis fagacearum*)

Arkansas

Infected counties: Baxter, Benton, Boone, Carroll, Clay, Craighead, Crawford, Franklin, Fulton, Independence, Izard, Johnson, Lawrence, Logan, Madison, Marion, Mississippi, Nevada, Newton, Poinsett, Pope, Randolph, Scott, Searcy, Sharp, Stone, Washington, and Yell.

Illinois

Entire state.

Indiana

Entire state.

Iowa

Entire state.

Kansas

Infected counties: Anderson, Atchison, Cherokee, Doniphan, Douglas, Franklin, Jackson, Jefferson, Johnson, Leavenworth, Linn, Miami, Neosho, Pottawatomie, Shawnee, and Wyandotte.

Kentucky

Infected counties: Adair, Allen, Ballard, Bath, Bell, Boyd, Breathitt, Breckinridge, Bullitt, Butler, Caldwell, Calloway, Carter, Casey, Christian, Clay, Clinton, Cumberland, Daviess, Edmonson, Elliott, Estill, Fleming, Floyd, Graves, Grayson, Green, Greenup, Hancock, Hardin, Harlan, Hart, Henderson,

Hopkins, Jefferson, Johnson, Knott, Knox, Lawrence, Lee, Leslie, Letcher, Lewis, Logan, McCracken, McLean, Magoffin, Marshall, Martin, Menifee, Metcalfe, Montgomery, Morgan, Muhlenberg, Nelson, Ohio, Oldham, Owsley, Perry, Pike, Powell, Pulaski, Rowan, Russell, Taylor, Todd, Trigg, Union, Warren, Wayne, and Webster.

Maryland

Infected Counties: Allegany, Frederick, Garrett, and Washington.

Michigan

Infected counties: Barry, Barrien, Calhoun, Cass, Clare, Clinton, Grand Traverse, Kalamazoo, Kent, Lake, Livingston, Manistee, Missaukee, Muskegon, Oakland, Roscommon, St. Joseph, Van Buren, Washtenaw, Wyne, and Menominee.

Minnesota

Infected counties: Anoka, Aitkin, Blue Earth, Carver, Cass, Chicago, Crow Wing, Dakota, Dodge, Fillmore, Freeborn, Goodhue, Hennepin, Houston, Le Sueur, McLeod, Mille Lacs, Morrison, Mower, Nicollet, Olmsted, Ramsey, Rice, Scott, Sherburne, Sibley, Steele, Wabasha, Waseca, Washington, Winona, and Wright.

Missouri

Entire state.

Nebraska

Infected counties: Cass, Douglas, Nemaha, Otoe, Richardson, and Sarpy.

North Carolina

Infected counties: Buncombe, Burke, Haywood, Jackson, Lenoir, Macon, Madison, and Swain.

Ohio

Entire state.

Oklahoma

Infected counties: Adair, Cherokee, Craig, Delaware, Haskell, Latimer, LeFlore, Mayes, McCurtain, McIntosh, Ottawa, Pittsburg, Rogers, Sequoyah, and Wagoner.

Pennsylvania

Infected counties: Adams, Allegheny, Armstrong, Beaver, Bedford, Blair, Butler, Cambria, Centre, Clarion, Clinton, Cumberland, Erie, Fayette, Franklin, Fulton, Greene, Huntingdon, Indiana, Jefferson, Juniata, Lawrence, Mifflin, Perry, Somerset, Venango, Washington, and Westmoreland.

South Carolina

Infected counties: Chesterfield, Kershaw, Lancaster, Lee, and Richland.

Tennessee

Infected Counties: Blount, Carter, Cocke, Cumberland, Grainger, Greene, Hamblen, Hancock, Hardeman, Hawkins, Jefferson, Knox, Lincoln, Loudon, Montgomery, Rhea, Roane, Robertson, Sevier, Sullivan, Union, Washington, and White.

Texas

Infected counties: Bandera, Bastrop, Bexar, Blanco, Basque, Burnett, Dallas, Erath, Fayette, Gillespie, Hamilton, Kendall, Kerr, Lampasas, Lavaca, McLennan, Midland, Tarrant, Travis, Williamson.

Virginia

Infected counties: Aleghany, Augusta, Bath, Botetoust, Clarke, Frederick, Giles, Highland, Lee, Loudoun, Montgomery, Page, Rockbridge, Rockingham, Scott, Shenandoah, Smyth, Warren, Washington, Wise, and Wythe.

West Virginia

Infected counties: all counties except Tucker and Webster.

Wisconsin

Infected counties: Adams, Brown, Buffalo, Chippewa, Clark, Columbia, Crawford, Dane, Dodge, Dunn, Eau Claire, Fond du Lac, Grant, Green, Green Lake, Iowa, Jackson, Jefferson, Juneau, Kenosha, La Crosse, Lafayette, Lincoln, Marquette, Milwaukee, Monroe, Oconto, Outagamie, Ozaukee, Pepin, Pierce, Polk, Portage, Racine, Richland, Rock, St. Croix, Sauk, Shawano, Trempealeau, Vernon, Walworth, Washington, Waukesha, Waupaca, Waushara, Winnebago, and Wood.

10.0 Phony Peach

Alabama

Entire state.

Arkansas

Counties of Arkansas, Ashley, Bradley, Chicot, Columbia, Crittendon, Cross, Desha, Drew, Hempstead, Howard, Jefferson, Lafayette, Lee, Lincoln, Little River, Miller, Monroe, Nevada, Phillips, Pike, Poinsett, St. Francis, Sevier, Union, and Woodruff.

Florida

Entire state.

Georgia

Entire state.

Kentucky

County of McCracken.

Louisiana

Parishes of Bienville, Bossier, Caddo, Claiborne, DeSoto, Jackson, Lincoln, Morehouse, Natchitoches, Ouachita, Red River and Union.

Mississippi

Entire state.

Missouri

County of Dunklin.

North Carolina

Counties of Anson, Cumberland, Gaston, Hoke, Polk and Rutherford.

South Carolina

Counties of Aiken, Allendale, Bamberg, Barnwell, Cherokee, Chesterfield, Edgefield, Greenville, Lancaster, Laurens, Lexington, Marlboro, Orangeburg, Richland, Saluda, Spartanburg, Sumter, and York.

Tennessee

Counties of Chester, Crockett, Dyer, Fayette, Hardman, Hardin, Lake, Lauderdale, McNairy, Madison, and Weakley.

Texas

Counties of Anderson, Bexar, Brazos, Cherokee, Freestone, Limestone, McLennan, Milan, Rusk, San Augustine, Smith, and Upshur.

11.0 Citrus Canker (*Xanthomonas axonopodis* pv. *citri*)

Any areas designated as quarantined under the Federal Citrus Canker quarantine 7 CFR 301.75 et seq.

12.0 Pine Shoot Beetle [*Tomicus piniperda* (L.)]

Any areas designated as quarantined under the Federal Pine Shoot Beetle quarantine 7 CFR 301.50 et seq.

Mike Strain DVM
Commissioner

0804#020

POTPOURRI

**Department of Health and Hospitals
Licensed Professional Counselors Board of Examiners**

Public Hearing Change—General Provisions
and Code of Conduct
(LAC 46:LX, Chapters 1-21)

The Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners published a Notice of Intent for General Provisions and Code of Conduct in the March 20, 2008, edition of the *Louisiana Register* (Volume 34, Number 3).

This Notice of Intent was published with an incorrect Public Hearing date. The Public Hearing for the Licensed Professional Counselors Board of Examiners Notice of Intent will be held on Monday, April 28, 2008, at 5:30 p.m., St Luke-Simpson United Methodist Church, 1500 Country Club Road, Room 305, Lake Charles, LA 70605.

Gloria Bockrath, Ph.D.
Chairman

0804#061

POTPOURRI

**Department of Health and Hospitals
Office of Public Health
Center for Environmental Health Services**

2007 Louisiana Annual Beach Report

The Louisiana Office of Public Health (OPH) is requesting written comments from the public on the agency's 2007 Louisiana Annual Beach Report. The agency continues to operate a monitoring program for marine beach environments in Louisiana through the U.S. Environmental Protection Agency's Beach Environmental Assessment and Coastal Health Act of 2000. The OPH will continue the monitoring and public notification program for Louisiana's coastal recreation waters with a grant provided through the Beaches Environmental Assessment and Coastal Health Act 2000 (BEACH Act) for the purpose of protecting public health at Louisiana's beaches. The BEACH Act requires that coastal states adopt water quality standards that EPA has chosen for coastal recreation waters, and to notify the public if water quality standards for pathogen indicators are exceeded. Under the Beach Act, Louisiana is required to identify coastal recreation waters in the state; identify bathing beaches adjacent to coastal recreation waters; evaluate and rank beaches; develop a sampling, monitoring and notification program; develop a method for issuing beach advisories and develop a method of public notification. The 2007 Louisiana Annual Beach Report provides monitoring and notification results for 2007 and describes how beaches considered for monitoring under the program during 2007 were assigned to a monitoring tier, which determines where, when and how monitoring and public notification will take place. The 2007 Louisiana Annual Beach Report can be viewed at the following locations:

Office of Public Health
Center for Environmental Health Services
Beach Monitoring Program
Room 146-14
628 N. 4th Street
Baton Rouge, LA 70821

The Louisiana Beach Monitoring Program website at:
www.ophbeachmonitoring.com or
<http://www.dhh.louisiana.gov/offices/?ID=207>

All interested persons are encouraged to submit written comments by May 30, 2008 to:

Jerome A. Freedman, Coordinator
Office of Public Health
Beach Monitoring Program
P.O. Box 4489, Bin No. 16
Baton Rouge, LA 70821
FAX (225) 342-7607
E-mail: jfredmn@dhh.la.gov

If you have any questions please contact Jerome A. Freedman at (225) 342-7541.

Alan Levine
Secretary

0804#097

POTPOURRI

**Department of Natural Resources
Office of Conservation**

Orphaned Oilfield Sites

Office of Conservation records indicate that the Oilfield Sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared Orphaned Oilfield Sites.

Operator	Field	District	Well Name	Well Number	Serial Number
Great Southern Oil & Gas Co Inc	Potash	L	SI 508	1	162564
Floyd J. Karsten	Napoleonville	L	Gus J Labarre	1	39252
Floyd J. Karsten	Napoleonville	L	C J Savoie	1	41159 (29)
La Gas & Fuel Co.	Elm Grove	S	Elston	5	3746

James H. Welsh
Commissioner

0804#031

POTPOURRI

**Department of Natural Resources
Office of the Secretary
Fishermen's Gear Compensation Fund**

Loran Coordinates

In accordance with the provisions of R.S. 56:700.1 et seq., notice is given that 13 claims in the amount of \$43,337.89 were received for payment during the period March 1, 2008 - March 31, 2008.

There were 13 claims paid and 0 claims denied.

Latitude/Longitude Coordinates of reported underwater obstructions are:

2856.341	8926.439	Plaquemines
2911.453	9105.900	Terrebonne
2911.849	9051.831	Terrebonne
2912.578	9115.003	Terrebonne
2914.222	9046.636	Terrebonne
2917.136	8941.283	Plaquemines
2921.999	9121.328	St. Mary
2922.805	8956.846	Jefferson
2942.399	9152.936	Iberia
2944.318	8925.132	St. Bernard
2945.054	9320.882	Cameron
2945.099	9001.104	Jefferson
3011.396	8947.318	Orleans

A list of claimants and amounts paid can be obtained from Gwendolyn Thomas, Administrator, Fishermen's Gear

Compensation Fund, P.O. Box 44277, Baton Rouge, LA 70804 or you can call (225)342-0122.

Scott A. Angelle
Secretary

0804#016

POTPOURRI

**Department of Revenue
Policy Services Division**

Natural Gas Severance Tax Rate

The natural gas severance tax rate effective July 1, 2008 through June 30, 2009 has been set at 28.8 cents per thousand cubic feet (MCF) measured at a base pressure of 15.025 pounds per square inch absolute and at the temperature base of 60 degrees Fahrenheit.

This tax rate is set each year by multiplying the natural gas severance tax base rate of 7 cents per MCF by the "gas base rate adjustment" determined by the Secretary of the Department of Natural Resources in accordance with R.S. 47:633(9)(d)(i). The "gas base rate adjustment" is a fraction, of which the numerator is the average of the New York Mercantile Exchange (NYMEX) Henry Hub settled price on

the last trading day for the month, as reported in the Wall Street Journal for the previous 12-month period ending on March 31, and the denominator is the average of the monthly average spot market prices of gas fuels delivered into the pipelines in Louisiana as reported by the Natural Gas Clearing House for the 12-month period ending March 31, 1990 (1.7446 \$/MMBTU).

Based on this computation, the Secretary of the Department of Natural Resources has determined the natural gas severance "gas base rate adjustment" for April 1, 2007, through March 31, 2008, to be 411.36 percent. Applying this gas base rate adjustment to the base tax rate of 7 cents per MCF produces a tax rate of 28.8 cents per MCF effective July 1, 2008, through June 30, 2009. The reduced natural gas severance tax rates provided for in R.S. 47:633(9)(b) and (c) remain the same.

The "gas base rate adjustment" and the "gas tax rate" are being published as required by R.S. 47:633(9)(d)(i). Questions concerning the natural gas severance tax rate should be directed to the Taxpayer Services Division, Severance Tax Section at 225-219-7656, Option 3.

Cynthia Bridges
Secretary

0804#054

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