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Executive Orders

EXECUTIVE ORDER KBB 05-37

Emergency Suspension of Certain Provisions Regarding Temporarily Inoperable Hospitals

WHEREAS, Hurricane Katrina struck the state of Louisiana resulting in severe flooding and damage to the southeastern part of the state which has threatened the safety, health, and security of the citizens of the state of Louisiana, along with private property and public facilities;

WHEREAS, the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, et seq., confers upon the governor of the state of Louisiana emergency powers to deal with emergencies and disasters, including those caused by fire, flood, earthquake or other natural or man-made causes;

WHEREAS, pursuant to such Act, a state of emergency was declared through Proclamation No. 48 KBB 2005;

WHEREAS, pursuant to the Louisiana Health Emergency Powers Act, R.S. 29:760, et seq., a state of public health emergency was declared through Executive Order KBB 2005-26;

WHEREAS, R.S. 29:724(D)(1) and 766(D)(1) authorize the governor, during a state of emergency, to suspend the provisions of any regulatory statute prescribing procedures for the conducting of state business, or the orders, rules or regulations of any state agency, if strict compliance with the provisions of any statute, order, rule or regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency;

WHEREAS, as a direct consequence of the disaster and evacuation, several hospitals in the parishes affected by Hurricane Katrina became temporarily inoperable, not fit for operation, and/or unable to provide services to the community;

WHEREAS, LCA 48:I-9305 and 9307 provide that a hospital's license shall be immediately void if a hospital ceases to operate and provides procedures for the closure of a hospital, including the disposition of patient records, public notice, etc.;

WHEREAS, there is a profound need for hospital services in the affected parishes to resume operations as soon as possible; and

WHEREAS, the secretary of the Department of Health and Hospitals has requested the suspension of certain regulations, for hospitals located in the parishes of Jefferson, Orleans, Plaquemines, St. Bernard, St. Tammany, Tangipahoa, and Washington which became temporarily inoperable, not fit for operation, or unable to provide services to the community as a result of Hurricane Katrina and its aftermath so as to allow a prudent and expedited return to operation;

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

SECTION 1: LCA 48:I-9305(B)(3), which voids a hospital license once a hospital ceases to operate, is hereby suspended to the extent it applies to any hospital located in the parishes of Jefferson, Orleans, Plaquemines, St. Bernard, St. Tammany, Tangipahoa, and Washington that have ceased to operate or provide services to the community as a consequence of Hurricane Katrina and its aftermath. This suspension applies only to the extent that such regulation automatically voids a license when a hospital ceases to operate. Any hospital located in any other parish that ceases to operate or any ownership changes of a hospital located in any parish statewide shall continue to void a hospital's license as provided in LCA 48:I-9305(B)(3).

SECTION 2: LCA 48:I-9307, which provides procedures for the closure of a hospital upon cessation of business is hereby suspended to the extent that it applies to any hospital located in the parishes of Jefferson, Orleans, Plaquemines, St. Bernard, St. Tammany, Tangipahoa, and Washington that have ceased to operate or provide services to the community as a consequence of Hurricane Katrina and its aftermath. Any hospital located in any other parish that ceases to operate shall continue to be required to follow the procedures outlined in LCA 48:I-9307.

SECTION 3: Hospitals located in Jefferson, Orleans, Plaquemines, St. Bernard, St. Tammany, Tangipahoa, and Washington parishes and have ceased to operate shall notify the Department of Health and Hospitals, Health Standard Section, in writing when the hospital becomes operable and capable of providing services to the community.

SECTION 4: The Department of Health and Hospitals is hereby authorized to conduct any and all necessary surveys, inspections, and/or reviews of the hospital's facilities upon receipt of such notification.

SECTION 5: All departments, commissions, boards, offices, entities, agencies, and officers of the state of Louisiana, or any political subdivision thereof, are authorized and directed to cooperate with implementing the provisions of this Order.

SECTION 6: This Order is effective upon signature and shall apply retroactively from Monday, August 29, 2005, through Monday, October 17, 2005, unless amended, modified, terminated, or rescinded by the governor, or terminated by operation of law prior to Monday, October 17, 2005.

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 19th day of September, 2005.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Al Ater
Secretary of State
0510#094

EXECUTIVE ORDER KBB 05-38

Executive Branch Hiring and Spending Freeze

WHEREAS, pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, et seq., a state of emergency was declared through Proclamation No. 48 KBB 2005;

WHEREAS, such Act also confers upon the governor powers to deal with emergencies and disasters, including those caused by fire, flood, earthquake or other natural or man-made causes, to ensure that preparations of this state will be adequate to deal with such emergencies or disasters, and to preserve the lives and property of the citizens of the state of Louisiana;

WHEREAS, Hurricane Katrina and its aftermath caused unprecedented and extensive damage in our state and this tragic event has resulted in significant consequences on our people and our businesses as well as state finances;

WHEREAS, pursuant to the provisions of Article IV, Section 5 of the Louisiana Constitution of 1974, as amended, and Act No. 16 of the 2005 Regular Session of the Louisiana Legislature, the governor may issue executive orders which limit the expenditure of funds by the various agencies in the executive branch of state government (hereafter "spending freeze"); and

WHEREAS, underlying assumptions and needs in the development of the current year's state budget have been drastically altered by the impact of Hurricane Katrina and its aftermath and the interests of the citizens of our state are best served by implementing fiscal management practices to ensure that appropriations will not exceed actual revenues and resources are made available to address post-Katrina shift in needs;

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

SECTION 1: Heads of state agencies and human resource directors shall, to the maximum degree possible, follow Department of State Civil Service General Circular No. 001620, "KATRINA - Assigning employees where most needed," with particular attention to the section titled "Referral of Displaced Employees," in order to make the best use of our state workforce by redeploying displaced state employees.

SECTION 2:

A. Unless specifically exempted by a provision of this Order, no vacancy in an existing or new position of employment within the executive branch of state government, which exists on or occurs after September 19, 2005, shall be filled without the express written approval of the commissioner of administration; and

B. Unless specifically exempted by a provision of this Order, no expenditure of funds shall be made within the executive branch of state government for travel, supplies, professional services, other charges (excluding interagency transfers and debt service), acquisitions, and/or major repairs, without the express written approval of the commissioner of administration.

SECTION 3:

A. The budget activities funded by Act No. 16 of the 2005 Regular Session of the Louisiana Legislative (hereafter "Act No. 16"), which are exempt from the prohibitions set forth in Section 2 of the Order are as follows:

1. All budget activities directly related to Hurricane Katrina recovery and rebuilding efforts;

2. All budget activities directly necessary for a statewide elected official to perform his or her constitutional functions;

3. All essential budget activities which are expressly and directly mandated by constitution, existing court orders, or existing cooperative endeavor agreements;

4. All essential budget activities of statewide control agencies;

5. All essential budget activities directly required for collection of state revenues recognized by the Revenue Estimating Conference; and

6. All budget activities which are not financed by funds from the State General Fund (Direct), as that term is used in Act No.16, or other funds the balances of which revert to the State General Fund (Direct), as that term is used in Act No. 16 (hereafter "State General Fund Equivalent").

B. Other budget activities funded by Act No. 16 are exempt from the prohibitions set forth in Section 2 of this Order to the following degree:

1. Positions, field travel, and supplies for incarceration, rehabilitation, diagnostic and health services, transportation of inmates, and probation and parole services related to adult corrections as well as positions and field travel for the Pardon Board and Parole Board in the Department of Public Safety and Corrections, Corrections Services;

2. Positions, field travel, and supplies for juvenile secure care facilities and the Field Services Program in the Department of Public Safety and Corrections, Youth Services;

3. Positions, field travel, and supplies related to direct patient care;

4. All positions in the Department of Social Services needed to meet the federal criteria to receive the Temporary Assistance to Needy Families block grant and to continue to provide necessary child welfare services (including Family Independence Temporary Assistance Program eligibility determination case workers, Family Independence work employment and training staff, child support enforcement personnel, disability determination workers, child care assistance employees, and child welfare services positions), and required field travel for these positions and services;

5. All State Police commissioned trooper positions as well as data processing, communications, and crime lab positions in Public Safety Services, field travel for public safety and regulatory activities of the State Police, as well as automotive, aviation, and forensic supplies for the State Police; and

6. All instructional and residential personnel, field travel, and supplies deemed to be absolutely critical for the operations of Special Schools and Special School District #1.

C. The budget activities funded by Act No. 16 which are exempt from the prohibitions set forth in Subsection 2(A) of this Order are: employee transfers, promotions, or reallocations within a department, office, agency, board or commission of the executive branch of state government

which will not, in any manner, increase the aggregate number of filled positions in that department, office, agency, board or commission as of the effective date of this Order. This includes positions being filled through reassignment of displaced state employees.

D. The budget activities funded by Act No. 16 which are exempt from the portion of the provisions of Subsection 2(B) of this Order that prohibits the expenditure of funds for travel are as follows:

1. All travel associated with promoting or marketing the state of Louisiana and/or its products by: a) the Office of Tourism within the Department of Culture, Recreation and Tourism; or b) the Department of Economic Development;

2. Field travel for the Mental Health Advocacy Service;

3. Field travel required for the Office of Legal Affairs, district managers and roving motor vehicle workers in the Office of Motor Vehicles, and inspectors and arson investigators of the Office of the State Fire Marshal in the Department of Public Safety and Corrections, Public Safety Services;

4. Field travel for the Municipal Fire and Police Civil Service Commission and the State Police Commission deemed to be essential;

5. Travel for the Board of Elementary and Secondary Education for board meetings; and

6. Field travel associated with Minimum Foundation Program internal auditors and field travel associated with the accountability initiatives and monitoring local teacher assessments.

E. The budget activities funded by Act No. 16 which are exempt from the portions of the provisions of Subsection 2(B) of this Order that prohibits the expenditure of funds for supplies are as follows.

1. Expenditures of all departments, agencies, offices, boards, and commissions for supplies that total no more than 75 percent of the initial appropriation for supplies for the department, agency, office, board or commission from State General Fund (direct) or State General Fund Equivalent for supplies expenditures;

2. Supplies for the Office of State Parks within the Department of Culture, Recreation and Tourism for maintenance and household needs to maintain state parks and commemorative areas;

3. Instructional supplies for post-secondary education; and

4. Automotive supplies for travel excepted in Subsection 3(D) above.

SECTION 4: The commissioner of administration is authorized to develop additional guidelines as necessary to facilitate the administration of this Order.

SECTION 5:

A. The commissioner of administration is authorized to grant an agency, department, office, board or commission in the executive branch of state government an exemption, on a case-by-case basis or by category, from all or a part of the prohibitions set forth in Section 2 of this Order, as he deems necessary and appropriate. Such an exemption shall be express and in writing;

B. Requests for an exemption from all or a part of the prohibitions set forth in Section 2 of this Order, on a case-by-case basis or by category, shall be submitted only by a statewide elected official, by the secretary or head of a department, or by the head of an agency, office, board or commission which is not within a department. Each request for an exemption shall be in writing and shall contain a description of the type of exemption sought and full justification for the request;

C. The commissioner of administration may develop guidelines pertaining to requests for exemption from all or a part of the prohibitions set forth in Section 2 of this Order; and

D. If necessary, the commissioner of administration may develop definitions for the terms and/or the description used in this Order.

SECTION 6:

A. Unless otherwise modified by the commissioner of administration, each department, agency, office, board or commission shall file reports with the commissioner of administration on November 3, 2005, January 3, 2006, and April 3, 2006, reflecting projected savings, by means of financing, that the department, agency, office, board, or commission will generate through the implementation of this Order. The report shall reflect a full accounting of personnel changes within the department, agency, office, board or commission for the reporting period covered, including an accounting of employment figures at the beginning and end of the reporting period and the number of vacancies filled and/or not filled during the reporting period pursuant to the provisions of this Order.

B. For positions of employment affected by this expenditure and hiring freeze, the report shall include a description of the methodology used to formulate the personnel savings. This description shall include, at a minimum, the following information for each position of employment affected:

1. The type of position of employment to remain vacant, including job title; and

2. The job function of the position of employment and an analysis of how it meets or serves the role, scope, and/or mission of the Unit.

SECTION 7: All departments, commissions, boards, offices, entities, agencies, and officers of the state of Louisiana, or any political subdivision thereof, are authorized and directed to cooperate with implementing the provisions of this Order.

SECTION 8: This Order is effective upon signature and shall remain in effect through June 30, 2006, 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 19th day of September, 2005.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Al Ater
Secretary of State
0510#095

EXECUTIVE ORDER KBB 05-39

Declaration of Public Health Emergency for
Control and Disposition of Human Remains

WHEREAS, pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, et seq., a state of emergency was declared through Proclamation No. 48 KBB 2005;

WHEREAS, subsequently, Hurricane Katrina struck the state of Louisiana causing severe flooding and damage to the southeastern part of the state which has threatened the safety, health, and security of the citizens of the state of Louisiana, along with the private property and public facilities;

WHEREAS, shortly thereafter, levees broke in the parish of Orleans, exacerbating the flooding and posing further threats to the safety, health, and security of the citizens of Louisiana, private property and public facilities;

WHEREAS, hundreds of people have perished and many citizens have suffered or will suffer injury and/or illness;

WHEREAS, R.S. 29:769(D) authorizes the governor to declare a state of public health emergency and order that the Office of Public Health exercise control over the disposition of human remains of people who died in or as a result of Hurricane Katrina and its aftermath; and

WHEREAS, the secretary of the Department of Health and Hospitals and the state health officer have requested there be an appointment of an Office of Public Health, State Medical Examiner to exercise control over the disposition of human remains of people who died in or as a result of Hurricane Katrina and its aftermath;

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

SECTION 1: Pursuant to Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:724, et seq., and more specifically R.S. 29:769(D), a state of public health emergency is hereby declared for the purpose of the control and disposition of human remains.

SECTION 2: The secretary of the Department of Health and Hospitals is hereby authorized to appoint an Office of Public Health, State Medical Examiner to exercise control over the disposal of human remains of individuals who died in or as a result of Hurricane Katrina and its aftermath.

SECTION 3: Such appointee is authorized and empowered to set up, operate, and control a regional morgue and autopsy facility (DMORT) in St. Gabriel, Louisiana to receive, identify, and process human remains of those who died in or as a result of Hurricane Katrina collected from the parishes affected by Hurricane Katrina, and throughout the state, for coroners who are unable or unwilling to handle the remains themselves, including but not limited to the parishes or Jefferson Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany, and Washington. Such appointee shall coordinate and cooperate with the coroners of the above parishes in the recovery, retrieval, identification, interment or cremation of hurricane related remains.

SECTION 4: Such appointee is authorized and empowered to order and obtain medical records, including hospital, nursing home, physicians, dental and other useful medical records of possible hurricane decedents to aid in their identification and in order to establish their cause of death.

SECTION 5: Such appointee is hereby authorized to sign death certificates, burial permits, and cremation permits for human remains whose death is related to Hurricane Katrina and its aftermath when the jurisdictional coroner is unidentified, unavailable, unable or unwilling to sign.

SECTION 6: This Order is effective upon signature and shall be applicable from Monday, September 12, 2005, until such time as amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

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 19th day of September, 2005.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Al Ater
Secretary of State
0510#096

EXECUTIVE ORDER KBB 05-40

Limited Transfer of Authority to Commissioner of Insurance
and Rules Directive for Patient's Compensation Fund

WHEREAS, pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, et seq., a state of emergency was declared through Proclamation No. 48 KBB 2005;

WHEREAS, subsequently, Hurricane Katrina struck the state of Louisiana resulting in severe flooding and damage to the southeastern part of the state, which has threatened the safety and security of the citizens of the affected areas of the state of Louisiana, along with private property and public facilities;

WHEREAS, the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, et seq., confers upon the governor of the state of Louisiana emergency powers to deal with emergencies and disasters, including those caused by fire, flood, earthquake or other natural or man-made causes, to ensure that preparations of this state will be adequate to deal with such emergencies or disasters, and to preserve the lives and property of the citizens of Louisiana;

WHEREAS, in accordance with R.S. 29:724, the governor may suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business, or the orders, rules, or regulations of any state agency, if strict compliance with the provisions of any statute, order, rule, regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency; and

WHEREAS, pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C.

5121-5206, a similar federal declaration of emergency was declared for affected parishes;

WHEREAS, thousands of families and businesses have suffered damages due to the hurricane and its aftermath and many of such families and businesses have had to re-locate temporarily due to mandatory or voluntary evacuations and/or damage to their dwelling or office rendering it uninhabitable and certain healthcare provider networks, or portions thereof, have collapsed;

WHEREAS, in addition to the displacement of thousands of citizens, Hurricane Katrina has also resulted in mass interruption of communication including phone service, internet service and the delivery of mail in numerous areas throughout southeast Louisiana;

WHEREAS, in the ordinary course of business, insurance companies send notices to their insureds, many of such notices are required by law to be responded to within specified time limits with consequence for failure to do so;

WHEREAS, state law, in many instances, also provides requirements for the approval and denial of claims by insurers that compliance therewith is not practical for the thousands of displaced insureds and necessary third parties such as healthcare provider networks;

WHEREAS, in addition, the Patient's Compensation Fund Oversight Board similarly collects surcharges from enrolled and/or qualified healthcare providers for coverage under Louisiana's Patient's Compensation Fund which will yield similar issues for healthcare providers regarding notice of and remittance of payment thereof;

WHEREAS, the commissioner of Insurance has advised the governor that citizens in fourteen parishes are at risk with regard to any and all kinds of insurance; and

WHEREAS, the commissioner of Insurance has requested that the governor use her authority to authorize him to suspend laws regarding legal deadlines and certain processes and procedures as it applies to Louisiana citizens who on August 29, 2005, resided in certain parishes regarding any and all insurance matters, including but not limited to, flood insurance, life insurance, commercial general insurance, property and casualty insurance, vehicle insurance, liability insurance, burglary and forgery insurance, glass insurance, homeowner's insurance, health and accident insurance, health maintenance organizations, fire and extended coverage insurance, crop and livestock insurance, marine and transportation insurance, credit life insurance, health and accident insurance, all surplus lines insurance, reciprocal insurance, reinsurance, credit property and casualty insurance;

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

SECTION 1: The commissioner of Insurance shall have limited transfer of authority to act according to the requirements for implementation of Emergency Rule 15 (Title 37, Part XI, Chapter 27). The governor's authority pursuant to R.S. 29:724 to suspend provision of any regulatory statute prescribing the procedures for conduct of state business, or the orders, rules or regulations of the Department of Insurance is transferred to the commissioner of Insurance for purposes of enacting and enforcing Emergency Rules 15 (Title 37, Part XI, Chapter 27).

SECTION 2: The commissioner of Insurance shall have limited transfer of authority to act according to the requirements for implementation of Emergency Rule 16 (Title 37, Part XI, Chapter 27). The governor' s authority pursuant to R.S. 29:724 to suspend provision of any regulatory statute prescribing the procedures for conduct of state business, or the orders, rules or regulations of the Department of Insurance is transferred to the commissioner of Insurance for purposes of enacting and enforcing Emergency Rules 16 (Title 37, Part XI, Chapter 27).

SECTION 3: The commissioner of Insurance shall have limited transfer of authority to act according to the requirements for implementation of Emergency Rule 17 (Title 37, Part XI, Chapter 27). The governor' s authority pursuant to R.S. 29:724 to suspend provision of any regulatory statute prescribing the procedures for conduct of state business, or the orders, rules or regulations of the Department of Insurance is transferred to the commissioner of Insurance for purposes of enacting and enforcing Emergency Rules 17 (Title 37, Part XI, Chapter 27).

SECTION 4: This limited transfer of authority referenced in Sections 1, 2, and 3 specifically includes, but is not limited to, the authority to suspend applicable statutes, issue any rules, regulations, directives or take any other actions that the commissioner deems necessary to protect the public health, safety, and welfare of the citizens of Louisiana, who were affected by Hurricane Katrina and on August 29, 2005 resided in the following parishes: Jefferson; Lafourche; Livingston; Orleans; Plaquemines; St. Bernard; St. Charles; St. James; St. John the Baptist; St. Mary; St. Tammany; Tangipahoa; Terrebonne; and Washington.

SECTION 5: Any rules, regulations, directives or any other actions taken by the commissioner of Insurance shall have the full force and effect as if said rules, regulations, directives or any other actions were issued by the governor of the state of Louisiana.

SECTION 6: The governor of the state of Louisiana shall retain her power, coterminous with the power transferred to the commissioner of Insurance, to issue any rules, regulations, directives or take any other actions with regard to any and all insurance matters necessary to protect the public health, safety and welfare of the citizens of Louisiana.

SECTION 7 This limited transfer of authority shall remain in full force and effect for the duration of the state of emergency and/or any subsequent state of emergency declared thereafter, with regard to the disaster caused by Hurricane Katrina and its aftermath. Additionally, any rules, regulations, directives or any actions taken by the governor or the commissioner of Insurance during the state of emergency is in effect or any subsequent state of emergency is declared, shall remain in full force and effect notwithstanding the lifting of the state of emergency.

SECTION 8: The Department of Insurance Emergency Rule Nos. 15, 16, and 17 are hereby declared to be part of this Order, and authorizes if necessary, the suspension of any laws, rules, and regulations necessary for the implementation and enforcement of such laws, rules and regulations.

SECTION 9: All emergency orders, rules, regulations, directives or any other actions taken by the commissioner of Insurance referenced in the Order shall be

publicized according to law and posted on the Department of Insurance website at www.ldi.state.la.us.

SECTION 10: The Patient's Compensation Fund Oversight Board is hereby directed to adopt emergency rules regarding a temporary suspension of payment of surcharges by healthcare providers who practice or operate in disaster affected areas in order for such coverage of the fund to continue. Such rules shall be publicized according to law and posted on the Patient's Compensation Fund website at www.lapcf.state.la.us.

SECTION 11: All departments, commissions, boards, offices, entities, agencies, and officers of the state of Louisiana, or any political subdivision thereof, are authorized and directed to cooperate with the implementation of the provisions of this Order.

SECTION 12: 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 Louisiana, at the Capitol, in the city of Baton Rouge, on this 19th day of September, 2005.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Al Ater
Secretary of State
0510#097

EXECUTIVE ORDER KBB 05-41

Emergency Commandeering of
Property in St. Bernard Parish

WHEREAS, the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, et seq., confers upon the governor of the state of Louisiana emergency powers to deal with emergencies and disasters, including those caused by fire, flood, earthquake or other natural or man-made causes, to ensure that preparations of this state will be adequate to deal with such emergencies or disasters, and to preserve the lives and property of the citizens of the state of Louisiana;

WHEREAS, pursuant to Proclamation No. 48 KBB 2005, a state of emergency was declared to exist and is currently in effect;

WHEREAS, R.S. 29:724(D)(4) provides that the governor, subject to any applicable requirements for compensation, may commandeer or utilize any private property if she finds it necessary to cope with the disaster or emergency;

WHEREAS, the expeditious restoration of electrical services is crucial for the health, safety, and welfare of the citizens of Louisiana, and for the preservation of life and property in the recovery efforts from the devastating effects of Hurricane Katrina;

WHEREAS, Entergy Louisiana, Inc. (hereafter "Entergy") is and has been aggressively working to restore electric utility service to residential, industrial, commercial and government customers in numerous areas affected by Hurricane Katrina, including customers in St. Bernard Parish;

WHEREAS, for purposes of restoring electric service to customers in St. Bernard Parish, a location is required that can store necessary materials and equipment and from which such materials and equipment can be transported to actual job sites for restoration work, referred to herein as a "laydown yard";

WHEREAS, the nature of the restoration work requires the utilization of helicopters to transport material and equipment from the laydown yard to restoration jobsites;

WHEREAS, for safety purposes, it is desirable that helicopters transporting such equipment minimize flying over houses, buildings, streets and/or highways;

WHEREAS, due to the extensive damages in St. Bernard Parish as a result of Hurricane Katrina, Entergy has identified a property in St Bernard Parish for a laydown yard, giving due consideration to the safety of the area and minimizing the risks arising from using helicopters in the above described manner; and

WHEREAS, Entergy, in consultation with staff of the Public Service Commission, has requested that such property be made available as a laydown yard in order that power may be restored to their customers in St. Bernard parish.

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

SECTION 1: The state of Louisiana hereby commandeers the property located in the parish of St. Bernard, state of Louisiana at Section 46, Township-13-South, Range-13-East, bounded on the West by Paris Road, on the East by Section 45, Township-13-South, Range 13-East, on the South by the 40 Arpent Canal and on the North by Bayou Bienvenue, containing approximately five acres, more or less in Chalmette, Louisiana, to be used by Entergy as a laydown yard for a period not to exceed three months from the date hereof.

SECTION 2: The use of such property by Entergy shall be subject to requirements for compensation as provided by R.S. 29:724(D)(4), to be paid by Entergy.

SECTION 3: Entergy has agreed to hold the owner or owners of such property harmless and defend such owner or owners from and against any liability arising from Entergy's uses of such property as a laydown yard.

SECTION 4: 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 Louisiana, at the Capitol, in the city of Baton Rouge, on this 21st day of September, 2005.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Al Ater
Secretary of State
0510#098

EXECUTIVE ORDER KBB 05-42

Emergency Filing Procedures for UCC And Notary Bonds
Extension of Executive Order No. KBB 05-30

WHEREAS, Executive Order No. KBB 2005-30, issued on September 7, 2005, suspended the requirement that certain Uniform Commercial Code (hereafter "UCC") filings be filed in the same parish as the original financing statement and that such notary, with temporary residence outside of their original parish, not be required to file additional bonds nor be assessed penalties for late annual report filings.

WHEREAS, Executive Order No. KBB 2005-30 is in effect until September 25, 2005; and

WHEREAS, the secretary of state has requested Executive Order No. KBB 2005-30 be extended for an additional 30 days;

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

SECTION 1: Section 1 of Executive Order No. KBB 2005-30, issued on September 7, 2005, is amended as follows:

Until October 25, 2005, or the date the appropriate Clerk of Court-s office becomes operational, all future UCC filings and subsequent UCC filings required to be filed in Jefferson, Plaquemines, St. Bernard, St. Tammany and Washington Parishes and in the Recorder of Mortgages in Orleans Parish, may be filed in any operational Clerk of Court office within the state of Louisiana.

SECTION 2: Section 3 of Executive Order No. KBB 2005-30, issued on September 7, 2005, is amended as follows:

Enforcement of annual report late penalties as provided in R.S. 35:202(B) shall be suspended against any resident of Jefferson, Orleans, Plaquemines, St. Bernard, St. Tammy and Washington Parishes, during the time period of Friday, August 26, 2005, and Tuesday, October 25, 2005.

SECTION 3: Section 2 of Executive Order No. KBB 2005-30 shall remain in full force and effect.

SECTION 4: This Order is effective upon signature and shall continue in effect until Tuesday, October 25, 2005, unless 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 22nd day of September, 2005.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Al Ater
Secretary of State
0510#099

EXECUTIVE ORDER KBB 05-43

Emergency Suspension of In-State
Licensure for Veterinarians
Extension of Executive Order No. KBB 05-35

WHEREAS, Executive Order No. KBB 2005-35, issued on September 12, 2005, suspended state licensure laws, rules, and regulations for veterinarians relative to the requirement of possessing a Louisiana license to practice veterinary medicine for those veterinarians from other states offering veterinary services to those animals needing such services as a result of the disaster caused by Hurricane Katrina, provided that said out-of-state veterinarians possess a current veterinary license in good standing in his or her respective state of licensure and that he or she practices in good faith and within the reasonable scope of his or her skills, training, or ability;

WHEREAS, Executive Order No. KBB 2005-35 is in effect until September 25, 2005; and

WHEREAS, the Louisiana Board of Veterinary Medicine and the state veterinarian has requested Executive Order No. KBB 2005-35 be extended for an additional 30 days;

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

SECTION 1: Section 3 of Executive Order No. KBB 2005-35, issued on September 12, 2005, is amended as follows:

The suspension of these rules, regulations, and laws shall extend through Tuesday, October 25, 2005.

SECTION 2: All other sections, subsections, and paragraphs of Executive Order No. KBB 2005-35 shall remain in full force and effect.

SECTION 3: This Order is effective upon signature and shall remain in effect until Tuesday, October 25, 2005, unless 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 22nd day of September, 2005.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Al Ater
Secretary of State
0510#100

EXECUTIVE ORDER KBB 05-44

Emergency Procedures for the
Department of Transportation and Development

WHEREAS, pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, et seq., a state of emergency was declared through

Proclamation No. 48 KBB 2005, as amended by Proclamation No. 54 KBB 2005, and Proclamation No. 54 KBB 2005;

WHEREAS, Hurricane Katrina made landfall in the state of Louisiana on Monday, August 29, 2005, leaving death and destruction of the state's infrastructure in its path, especially in the parishes of Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Tammany, Tangipahoa, Terrebonne, and Washington and severely impacting the traffic and infrastructure services in adjoining parishes, including but not limited to the parishes of Ascension and East Baton Rouge; and

WHEREAS, R.S. 29:724 authorizes the governor, during a state of emergency, to suspend the provisions of any state regulatory statute prescribing procedures for conducting state business, or the orders, rules or regulation of any state agency, if strict compliance with the provision of any statute, order, rule or regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency;

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

SECTION 1: The Louisiana Department of Transportation and Development (hereafter ALA DOTD@), acting through its secretary, or his designee, may act on an emergency basis to clean or temporarily repair, refurbish, reestablish, rehabilitate, and maintain all routes, roads, bridges, and facilities constituting the state highway system and supporting infrastructure owned by LA DOTD within the parishes directly affected by Hurricane Katrina, pursuant to the emergency authority granted by R.S. 48:207 and R.S. 48:252.1.

SECTION 2: Additionally, LA DOTD is authorized to forgo, to the minimum extent necessary, the selection process provided for in R.S. 48:285, *et seq*., in order to effectively meet the demands of this emergency and meet the needs of the public. However, the secretary of LA DOTD shall, to the extent practicable, assure a competitive process for the employment of consultants for construction and preconstruction engineering services, research, planning, environmental, and other activities contemplated under R.S. 48:285, et seq.

SECTION 3: The LA DOTD may, as directed by the secretary, or his designee, use shortened, abbreviated or amended procedures for the selection and procurement of goods, services, supplies, equipment, engineering services and contracting services as allowed under the emergency provisions of R.S. 48:207 and R.S. 48:252.1.

SECTION 4: The LA DOTD, as directed by the secretary, or his designee, may perform or contract work or services necessary to assist local and state officials connected with repair or reconstruction of any municipal or parish highway, bridge, levee or transportation infrastructure or facility in the state of Louisiana, during this emergency.

SECTION 5: Emergency work performed to assist local and state officials shall be performed by written agreement only and actual costs thereof borne by the LA DOTD shall be recorded and maintained for possible future reimbursement provided that such emergency contracts may be initiated through an abreviated written contract, but must be memorialized by formal contract procedures within 10 working days of commencement of services. Any authorized reimbursement to the state, known at the time of contracting, from any source of emergency relief available to local or state government, shall be included in the written agreement.

SECTION 6: The inspector general is directed and authorized to monitor all transactions conducted outside the scope of regulatory statutes, orders, rules, and regulations to insure that those transactions are directly related to the emergency situation and are prudently handled and, if any inappropriate transactions are noted, those situations shall be reported to the governor.

SECTION 7: Transportation Trust Fund dollars must be spent according to Louisiana Constitutional Article VII, '27. Additional state funding can be provided pursuant to R.S. 48:757(B) as authorized by the governor. Federal money can also be used for the purposes of this Order if approved and provided by the Federal Emergency Management Agency or any other authorized Federal agency.

SECTION 8: The secretary of LA DOTD, or his designee, is authorized to transfer job assignments, personnel, and functions of his department for the purpose of performing or facilitating emergency purchases, services, and contracting as necessary to comply with this Order and existing law.

SECTION 9: All available department resources should be utilized as reasonably necessary to cope with this emergency.

SECTION 10: All departments, commissions, boards, offices, entities, agencies, and officers of the state of Louisiana, or any political subdivision thereof, are authorized and directed to cooperate with the implementation the provisions of this Order.

SECTION 11: This Order is effective upon signature and shall remain in effect until Saturday, December 31, 2005, unless 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 23rd day of September, 2005.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Al Ater
Secretary of State
0510#101

EXECUTIVE ORDER KBB 05-45

Suspension of Deadlines and Obligations
of Assessors and Tax Collectors

WHEREAS, pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, et seq., a state of emergency was declared through Proclamation No. 48 KBB 2005, as amended by Proclamation No. 54 KBB 2005, and Proclamation No. 54 KBB 2005;

WHEREAS, Hurricane Katrina has caused unprecedented and extensive flooding and other damage;

WHEREAS, the Louisiana Constitution and relevant statutes have imposed certain deadlines and obligations upon assessors and tax collectors regarding public exposure of assessment lists, hearings by local boards of review, filing of tax rolls with the Louisiana Tax Commission, collection of taxes and sale of property for delinquent taxes; and

WHEREAS, the Louisiana Tax Commission, members of the Louisiana Assessors Association, representatives of the Sheriffs Association, members of the Police Jury Association and the Louisiana Municipal Association jointly request the governor to suspend certain deadlines and obligations of assessors and tax collectors for a period of one hundred twenty (120) days for the parishes of Jefferson, Plaquemines, Orleans, St. Bernard, St. Charles, St. Tammany, and Washington;

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

SECTION 1: All obligations and deadlines imposed by the following statutes are hereby suspended until at least December 29, 2005, for the parishes of Jefferson, Plaquemines, Orleans, St. Bernard, St. Charles, St. Tammany, and Washington;

A. La. R.S. 47:1997(B): Filing of rolls, payment of taxes, sale of property for delinquent taxes for Orleans Parish;

B. La. R.S. 47:1992(F): Inspection of assessment lists, notification and review of assessments by Board of Review for Orleans Parish;

C. La. R.S. 47:1992(G): Inspection of assessment lists, notification and review of assessments by Board of Review;

D. La. R.S. 47:1993(D): Preparation and filing of rolls by assessor;

E. La. R.S. 47:2101: Time for payment of taxes; except that subsection (A)(2), prohibiting forced collection of taxes on movable property prior to February 1 of the succeeding year unless the collector has good reason to believe that government will lose the collection, shall continue to be in effect;

F. La. R.S. 47:2171: Movable property, notice of delinquency;

G. La. R.S. 47:2180: Immovable property, notice of delinquency; and

H. La. R.S. 47:2180.1: Notice of mortgagee;

SECTION 2: This Order is effective upon signature and shall be applicable from Monday, August 29, 2005, unless amended, modified, terminated, or rescinded by the governor, or terminated by operation of law prior to such time.

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 23rd day of September, 2005.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Al Ater
Secretary of State
0510#102

EXECUTIVE ORDER KBB 05-46

Emergency Suspension of Certain
Unemployment Insurance Laws
Extension of Executive Order No. KBB 2005-34

WHEREAS, Executive Order No. KBB 2005-34, issued on September 12, 2005, suspended La. R.S. 23:1553, 23:1541, 23:1600(2) and (3), and 23:1601(1), (2), and (7) as a result of Hurricane Katrina's aftermath and the extreme volume of unemployment claims which needed to be processed timely and fairly;

WHEREAS, Executive Order No. KBB 2005-34 is in effect until September 25, 2005; and

WHEREAS, the secretary of Department of Labor has indicated that it is necessary that Executive Order No. KBB 2005-34 be extended;

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

SECTION 1: Section 1 of Executive Order No. KBB 2005-34, issued on September 12, 2005, is amended as follows:

A. The following statutes relative to unemployment insurance are hereby suspended during the state of emergency until Sunday, October 23, 2005, unless extended by subsequent executive order:

1. R.S. 23:1541 and 1553 which provide for a claimant benefits to be charged against a base period employer for purposes of that employer's tax experience rating and the protesting of such charges by employer. All such benefit charges shall be against the social charge tax rate and not against a specific employer.

2. R.S. 23:1600(2) and (3) which require that claimants register for work and conduct work search activities. Work registration and search activities are not practical for claimants without fixed temporary or permanent housing and verification of such activities is not practical in the many areas that continue to have communication challenges. Claimants otherwise eligible, shall be eligible notwithstanding the requirement to register for work and to conduct a work search.

3. R.S. 23:1601(1), (2) and (7) which provide certain disqualifications for otherwise eligible claimants. Such disqualification include reasons for separation,

including a substantial change in employment by the employer or intentional misconduct connected with employment by the employee and offsets for receipt of other benefits. Many separations are the direct result of the damage and destruction from Hurricane Katrina and its aftermath and not the fault of either the employer or the claimant. Also, calculation of offsets for benefits would unduly delay payment, given the volume of claims and the volume of employers without access to their personnel files. Eligible claimants shall not be disqualified based on the above identified Paragraphs.

B. The suspension of laws provided in Subsection A of this Section shall only apply to a claimant who, on August 29, 2005, resided or was employed in any of the following parishes: Acadia, Ascension, Assumption, Calcasieu, Cameron, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Orleans, Pointe Coupee, Plaquemines, St. Bernard, St. Charles, St. Helena, St. James, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermilion, Washington, West Baton Rouge and West Feliciana.

SECTION 2: This Order is effective upon signature and shall continue in effect until Sunday, October 23, 2005, unless amended, modified, terminated, or rescinded by the governor, or terminated by operation of law prior to such time.

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 23rd day of September, 2005.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Al Ater
Secretary of State
0510#103

EXECUTIVE ORDER KBB 05-47

Declaration of Public Health Emergency and Suspension of In-State Licensure for Medical/Health Professionals and Personnel Licensed Out-of-State
Extension of Executive Order No. KBB 05-33

WHEREAS, Executive Order No. KBB 2005-33, issued on September 12, 2005, suspended Louisiana State licensure laws, rules, and regulations for medical/health professionals and personnel for those professionals and personnel from other states and nations offering medical services to those needing medical services as a result of Hurricane Katrina, and the potential results of Hurricane Rita, provided that said out-of-state or out-of-country medical/health professionals and personnel possess a current medical license in good standing in their respective state or country of licensure and that they practice in good faith, and within the reasonable scope of his or her skills, training, or ability;

WHEREAS, Executive Order No. KBB 2005-33 is in effect until September 25, 2005; and

WHEREAS, the secretary of the Department of Health and Hospitals and the state health officer request that Executive Order No. 2005-33, issued on September 12, 2005, be extended for an additional 30 days;

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

SECTION 1: Section 2 of Executive Order No. KBB 2005-33, issued on September 12, 2005, is amended as follows:

Until Tuesday, October 25, 2005, the Louisiana State licensure laws, rules, and regulations for medical/health professionals and personnel are hereby suspended for those medical/health professionals and personnel from other states or other countries offering medical services in Louisiana to those needing medical services as a result of this disaster provided that said out-of-state or out-of-country medical/health professionals and personnel possess a current medical license in good standing in their respective state or country of licensure and that they practice in good faith and within the reasonable scope of his or her skills, training, or ability.

SECTION 2: Section 3 of Executive Order No. KBB 2005-33, issued on September 12, 2005, is amended as follows:

All out-of-state or out-of-country medical/health professionals and personnel offering services to the state of Louisiana by authority of this Order shall be covered by R.S. 40:1299.39, et seq., and shall thus be considered agents of the state of Louisiana for tort liability purposes contingent upon said out-of-state or out-of country medical/health professionals and personnel possessing a current medical license in good standing in their respective state or country of licensure and that they practice in good faith and within the reasonable scope of his or her skills, training or ability.

SECTION 3: Section 4 of Executive Order No. KBB 2005-33, issued on September 12, 2005, is amended as follows:

All out-of-state or out-of-country medical/health professionals and personnel offering services to the state of Louisiana by authority of this Order shall submit to the state health officer or his designee at the Office of Public Health within the Louisiana Department of Health and Hospitals, or the appropriate state health provider licensing board, a copy of their respective license and photo identification. Such persons shall contact the Public Health Office at 225-763-5762 or 225-763-5763.

SECTION 4: All other sections, subsections, and paragraphs of Executive Order No. KBB 2005-33, issued on September 12, 2005 shall remain in full force and effect.

SECTION 5: This Order is effective upon signature and shall remain in effect until Tuesday, October 25, 2005, unless amended, modified, terminated, or rescinded by the governor, or terminated by operation of law prior to such time.

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 23rd day of September, 2005.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Al Ater
Secretary of State
0510#104

EXECUTIVE ORDER KBB 05-48

Emergency Suspension of Prescription,
Peremption and Other Legal Deadlines
Extension of Executive Order No. KBB 05-32

WHEREAS, Executive Order No. KBB 2005-32, issued on September 6, 2005, suspended all deadlines applicable to legal proceedings, including prescription and peremption, in all Louisiana state courts, administrative agencies and boards;

WHEREAS, Executive Order No. KBB 2005-32 is in effect until September 25, 2005; and

WHEREAS, the Louisiana State Bar Association, the Louisiana Trial Lawyers Association, and the Louisiana Association of Defense Counsel jointly requested that Executive Order No. 2005 - 32 be extended for an additional 30 days;

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

SECTION 1: Section 1 of Executive Order No. KBB 2005-32, issued on September 6, 2005, is amended as follows:

A. All deadlines in legal proceedings, including liberative prescriptive and peremptive periods in all courts, administrative agencies, and boards are hereby suspended until at least October 25, 2005, including, but not limited to, non-constitutionally mandated deadlines in criminal proceedings and any such deadlines set for in the following:

1. Louisiana Civil Code;
2. Louisiana Code of Civil Procedure;
3. R.S. Title 9, Civil Code Ancillaries;
4. La. R.S. Title 13, Courts and Judicial Procedure;
5. La. R.S. Title 23, Chapter 10, Worker's Compensation;
6. a. R.S. Title 40, Chapter 5 Part XXI-A, Malpractice Liability for State Services; and
7. a. R.S. Title 40, Chapter 5, Part XXIII, Medical Malpractice.

B. The suspension of laws as provided in Subsection 1(A) of this Executive Order shall apply statewide and in all matters, except to the extent that the suspension of deadlines in legal proceedings may hereafter be shortened or lifted, in whole or in part, by an order issued by the Louisiana Supreme Court acting in accordance with the power vested pursuant to Article V of the Constitution.

SECTION 2: This Order is effective upon signature and shall remain in effect until Tuesday, October 25, 2005, unless amended, modified, terminated, or rescinded by the governor, or terminated by operation of law prior to such time.

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 23rd day of September, 2005.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Al Ater
Secretary of State
0510#105

EXECUTIVE ORDER KBB 05-49

Temporary Location of LSU School of Medicine

WHEREAS, pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, et seq., a state of emergency was declared through Proclamation No. 48 KBB 2005, as amended by Proclamation No. 54 KBB 2005;

WHEREAS, the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721 et seq., confers upon the governor of the state of Louisiana emergency powers to deal with emergencies and disasters, including those caused by fire, flood, earthquake or other natural or man-made causes, to ensure that preparations of this state will be adequate to deal with such emergencies or disasters, and to preserve the lives and property of the citizens of the state of Louisiana;

WHEREAS, Hurricane Katrina and the related flooding damaged and/or destroyed the facilities used by the Health Sciences Center of Louisiana State University;

WHEREAS, the Louisiana State University Health Science Center is a dominant provider of education for medical doctors, dentists, nurses and allied health care providers;

WHEREAS, the faculty of the Louisiana State University School of Medicine also provide substantial clinical medical services for the citizens of Louisiana, including the indigent and uninsured who were displaced from the New Orleans area to Baton Rouge;

WHEREAS, the faculty, staff, and students of the Louisiana State University Health Science Center have been displaced as a result of this disaster;

WHEREAS, Louisiana State University has temporarily moved the operations of the Health Science Center to Baton Rouge, with classes starting at Louisiana State University's Pennington Biomedical Research Center, as well as other locations;

WHEREAS, the influx of evacuees from the disaster area as well as the influx of emergency and relief personnel to address the tremendous needs of the area have created a critical shortage of available housing in the Baton Rouge area;

WHEREAS, Louisiana State University, in conjunction with state officials and the Federal Emergency Management Agency (hereafter "FEMA") has arranged to provide temporary emergency housing for many of these displaced faculty, staff, and students in a chartered ship which can be docked on the Mississippi River in the Baton Rouge area;

WHEREAS, FEMA in approving the use of the chartered ship, recognized that the continued viability of the Louisiana State University Health Science Center is at stake and that the providing of housing for students, faculty, and staff was essential to maintain the institution which produces doctors, nurses, dentists, and allied health care professionals for state of Louisiana, now and in the future;

WHEREAS, docking space is available in the Port of Greater Baton Rouge, which is governed by the Greater Baton Rouge Port Commission, a political subdivision of the state of Louisiana pursuant to Article VI, Section 44(2) of the Louisiana Constitution of 1974;

WHEREAS, pursuant to R.S. 29:724(D), the governor is authorized to use all available resources to the state and of each political subdivision of the state as reasonably necessary to cope with the disaster and emergency; and

WHEREAS, Louisiana State University Health Science Center has requested that docking space at the Greater Baton Rouge Port be made available for such charter ship as it is critical to the continued viability of their Health Science Center;

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

SECTION 1: The Greater Baton Rouge Port Commission (hereafter "Commission") shall take all reasonable steps, in light of the emergency circumstances, to make available to Louisiana State University School of Medicine an appropriate docking facility within the Port of Greater Baton Rouge suitable for use by the chartered ship as temporary emergency housing for displaced faculty, staff, and students of their Health Science Center.

SECTION 2: The Commission shall allow Louisiana State University the use of, and suitable access to, this docking facility beginning on the day this executive order is signed by the governor, and to continue use as long as necessary to fulfill the purposes of this Order.

SECTION 3: All departments, commissions, boards, offices, entities, agencies, and officers of the state of Louisiana, or any political subdivision thereof, are authorized and directed to cooperate with the implementation the provisions of this Order.

SECTION 4: 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 Louisiana, at the Capitol, in the city of Baton Rouge, on this 23rd day of September, 2005.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Al Ater
Secretary of State
0510#106

EXECUTIVE ORDER KBB 05-50

Suspension of Special Officer's Commission Bond Amends Executive Order No. KBB 05-29

WHEREAS, Executive Order No. KBB 2005-29, issued on September 3, 2005, regarding a special officer's commission by the superintendent of state police suspended the requirement of a bond and proof thereof provided for in La. R.S. 40:1379.1, and the qualifications and requirements provided in LAC 55:I-1303(G);

WHEREAS, Executive Order No. KBB 2005-29 provides that these suspensions are in effect until September 25, 2005; and

WHEREAS, the superintendent of State Police has requested Executive Order No. KBB 2005-34 be extended, particularly since Hurricane Rita has compounded issues presented by Hurricane Katrina;

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

SECTION 1: Section 4 of Executive Order No. KBB 2005-29, issued on September 3, 2005, is amended as follows:

The suspension of the bond requirements by a person receiving a special officer’s commission from the superintendent of State Police and LAC 55:1-1303(G) shall extend through Tuesday, October 25, 2005.

SECTION 2: All other sections of Executive Order No. KBB 2005-29 shall remain in full force and effect.

SECTION 3: This Order is effective upon signature and shall continue in effect until Tuesday, October 25, 2005, unless amended, modified, terminated, or rescinded by the governor, or terminated by operation of law prior to such time.

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 25th day of September, 2005.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Al Ater
Secretary of State
0510#107

EXECUTIVE ORDER KBB 05-51

Emergency Occupation of Hotel and Motel Rooms: Katrina and RitaCAmends Executive Order No. KBB 2005-24

WHEREAS, Executive Order No. KBB 2005-24, issued on September 1, 2005, stated that no evacuee shall be replaced by a non-evacuee as long as the evacuee currently occupying a hotel or motel room is able to pay the nightly rates, including applicable taxes, or is able to guarantee payment through appropriate insurance coverage or by the Federal Emergency Management Agency (FEMA);

WHEREAS, Proclamation No. 53 KBB 2005, issued on September 20, 2005, proclaimed a state of emergency due to Hurricane Rita; and

WHEREAS, it is necessary to amend Executive Order No. KBB 2005-24 in order to include those parishes affected by Hurricane Rita;

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

SECTION 1: Section 3 of Executive Order No. KBB 2005-24, issued on September 1, 2005, is amended as follows:

The attorney general, state police, and local governmental authorities are authorized to ensure compliance with this Order for the amount of time the state of Louisiana remains in a state of emergency pursuant to Proclamation No. 48 KBB 2005, as amended by 54 KBB 2005; or Proclamation No. 53 KBB 2005;

SECTION 2: All other sections of Executive Order No. KBB 2005-24, issued on September 1, 2005, shall remain in full force and effect.

SECTION 3 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 prior to such time.

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 27th day of September, 2005.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Al Ater
Secretary of State
0510#108

EXECUTIVE ORDER KBB 05-52

Emergency Suspension of Certain Workers' Compensation Laws

WHEREAS, pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, et seq., a state of emergency was declared through Proclamation No. 48 KBB 2005, as amended by Proclamation No. 54 KBB 2005, and Proclamation No. 53 KBB 2005;

WHEREAS, Hurricane Katrina struck the southeastern part of the state of Louisiana and Hurricane Rita struck the southwestern part of the state causing severe flooding and damage which has threatened the safety, health, and security of the citizens of the state of Louisiana, along with private property and public facilities;

WHEREAS, Hurricane Katrina and its aftermath, and Hurricane Rita rendered over eight hundred thousand (800,000) workers, employers, healthcare professionals and workers' compensation payors displaced;

WHEREAS, in addition to the displaced individuals and businesses, there are thousands of individuals remaining in south Louisiana with which there has been numerous communication challenges due to the mass extended interruption of mail service, phone service and electricity;

WHEREAS, the evacuations, displacements and communication issues as well as the inability of workers' compensation claimants and payors and their representatives to gain access to their files has resulted in challenges to the administration of the workers' compensation system;

WHEREAS, R.S. 29:724, authorizes the governor during a state of emergency to suspend the provisions of any state regulatory statute prescribing procedures for conducting state business, or the orders, rules or regulation of any state agency, if strict compliance with the provision of any statute, order, rules or regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency;

WHEREAS, the secretary of the Department of Labor has requested, due to the mass displacement of claimants across our state and our nation, that portions of R.S. 23:1124 regarding consequences for failure to timely submit to a medical examination and R.S. 23:1203(A) regarding out-of-state healthcare providers be suspended;

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

SECTION 1: R.S. 23:1124 which suspends an employee's right to workers' compensation benefits for failure to timely submit to a medical examination is hereby suspended. The suspension shall only apply to claimants who evacuated due to Hurricane Katrina and/or Hurricane Rita and only for such time as such claimant is in evacuee status.

SECTION 2: R.S. 23:1203(A) is hereby suspended to the extent that such statute differentiates between in-state and out-of-state providers and facilities. The suspension shall only apply for a claimant who evacuated to a location outside of Louisiana and for the time period that such claimant remains residing outside of Louisiana. In such instances, medical care, services and treatment shall be provided as though the provider or facility was located in Louisiana.

SECTION 3: This Order is effective upon signature and shall apply retroactively from Monday, August 29, 2005, through Monday, October 24, 2005, unless amended, modified, terminated, or rescinded by the governor, or terminated by operation of law prior to Monday, October 24, 2005.

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 29th day of September, 2005.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Al Ater
Secretary of State
0510#109

EXECUTIVE ORDER KBB 05-53

Emergency Suspension of Time Limitations Applicable to Benefits, Emoluments, Entitlements, and Opportunities Available to Public Employees

WHEREAS, the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721 et seq., confers upon the governor of the state of Louisiana emergency powers to deal with emergencies and disasters, including those caused by fire, flood, earthquake or other natural or man-made causes, to ensure that preparations of this state will be adequate to deal with such emergencies or disasters, and to preserve the lives and property of the citizens of the state of Louisiana;

WHEREAS, Hurricane Katrina struck the southeastern part of the state of Louisiana and Hurricane Rita struck the southwestern part of the state causing severe flooding and damage which has threatened the safety, health, and security of the citizens of the state of Louisiana, along with private property and public facilities;;

WHEREAS, pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, et seq., a state of emergency was declared through Proclamation No. 48 KBB 2005, as amended by Proclamation No. 54 KBB 2005, and Proclamation No. 53 KBB 2005;

WHEREAS, public employees enjoy benefits, emoluments, entitlements, and opportunities as a result of such employment which are established and governed by state statutes and/or orders, rules, and regulations that contain time limitations applicable to the enjoyment of those benefits, emoluments, opportunities, and entitlements;

WHEREAS, the effects of Hurricane Katrina, and the potential effects of Hurricane Rita, will prevent many public employees whose work domicile is in a parish subject to an official closure from meeting the requirements of those time limitations;

WHEREAS, the Department of State Civil Service has requested the governor to suspend the running of those time limitations;

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

SECTION 1: All time limitations contained in any statute, order, rule, or regulation affecting any benefit, emolument, entitlement or opportunity available to public employees as a result of their public employment and whose work domicile or location, whether permanent or temporary, was at an office or institution subject to an official closure at any time during the declared emergency are hereby suspended until the state of emergency is lifted, or the particular office or institution reopens, whichever occurs first.

SECTION 2: This Order is effective upon signature and shall be applicable from Saturday, August 27, 2005, unless 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 29th day of September, 2005.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Al Ater
Secretary of State
0510#110

EXECUTIVE ORDER KBB 05-54

Delay of the October 15, 2005 and November 12, 2005 Elections in the Parishes of Allen, Beauregard, Calcasieu, Jefferson Davis and Vermilion

WHEREAS, "in order to ensure maximum citizen participation in the electoral process and provide a safe and orderly procedure for persons seeking to qualify or exercise their right to vote, to minimize to whatever degree possible a person's exposure to danger during declared states of emergency, and to protect the integrity of the electoral process," the Louisiana Legislature enacted R.S. 18:401.1 to provide "a procedure for the emergency suspension or delay and rescheduling of absentee voting in person and elections"; and

WHEREAS, on September 28, 2005, pursuant to the provisions of R.S. 18:401.1(B), the secretary of state certified to the governor that as a result of Hurricane Rita a state of emergency exists in the parishes of Allen, Beauregard, Calcasieu, Jefferson Davis and Vermilion and recommends that the primary election scheduled to be held on Saturday, October 15, 2005, be postponed and delayed in those parishes;

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

SECTION 1: Under the authority of R.S. 18:401.1(B) and based on the September 28, 2005, certification of the secretary of state that a state of emergency exists in the parishes of Allen, Beauregard, Calcasieu, Jefferson Davis and Vermilion and the recommendation that the primary election in these parishes be postponed and delayed; the primary and proposition elections scheduled to be held on Saturday, October 15, 2005, in the parishes of Allen, Beauregard, Calcasieu, Jefferson Davis and Vermilion shall be held on Saturday, November 12, 2005; and the general and proposition elections in the parishes of Allen, Beauregard, Calcasieu, Jefferson Davis and Vermilion

scheduled to be held on Saturday, November 12, 2005, be postponed and delayed until Saturday, December 10, 2005.

SECTION 2: This Order is effective upon signature.

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 29th day of September, 2005.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Al Ater
Secretary of State
0510#111

EXECUTIVE ORDER KBB 05-55

Bond AllocationCRapides Finance Authority

WHEREAS, pursuant to the Tax Reform Act of 1986 and Act 51 of the 1986 Regular Session of the Louisiana Legislature, Executive Order No. KBB 2005-12 was issued to establish:

(1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 2005 (hereafter "the 2005 Ceiling");

(2) the procedure for obtaining an allocation of bonds under the 2005 Ceiling; and

(3) a system of central record keeping for such allocations; and

WHEREAS, the Rapides Finance Authority has requested an allocation from the 2005 Ceiling to be used with a program of financing mortgage loans for single family, owner-occupied residences for low and moderate income families throughout the parish of Rapides, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

NOW THEREFORE, I, KATHLEEN BABINEAUX BLANCO, 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 bond issue, as described in this Section, shall be and is hereby granted an allocation from the 2005 Ceiling in the amount shown:

Amount of Allocation	Name of Issuer	Name of Project
$10,000,000	Rapides Finance Authority	Single Family Mortgage Revenue Bonds

SECTION 2: The allocation granted herein shall be used only for the bond issue described in Section 1 and for the general purpose set forth in the "Application for Allocation of a Portion of the State of Louisiana Private Activity Bond Ceiling" submitted in connection with the bond issue described in Section 1.

SECTION 3: The allocation granted herein shall be valid and in full force and effect through December 31, 2005, provided that such bonds are delivered to the initial purchasers thereof on or before December 27, 2005.

SECTION 4: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 5: The undersigned certifies, under penalty of perjury, that the allocation granted herein was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The undersigned also certifies that the granted allocation meets the requirements of Section 146 of the Internal Revenue Code of 1986, as amended.

SECTION 6: 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 5th day of October, 2005.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Al Ater
Secretary of State
0510#112

EXECUTIVE ORDER KBB 05-56

Emergency Filing Procedures for UCC and Notary Bonds

WHEREAS, pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, et seq., a state of emergency was declared through Proclamation No. 48 KBB 2005, as amended by 54 KBB 2005, and Proclamation No. 53 KBB 2005;

WHEREAS, Hurricane Katrina struck the southeastern part of the state of Louisiana and Hurricane Rita struck the southwestern part of the state causing severe flooding and damage which has threatened the safety, health, and security of the citizens of the state of Louisiana, along with private property and public facilities;

WHEREAS, the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, et seq., confers upon the governor of the state of Louisiana emergency powers to deal with emergencies and disasters, including those caused by fire, flood, earthquake or other natural or man-made causes, to ensure that preparations of this state will be adequate to deal with such emergencies or disasters, and to preserve the lives and property of the citizens of Louisiana;

WHEREAS, R.S. 29:724(D)(1) authorizes the governor to suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business, or the orders, rules, or regulations of any state agency, if strict compliance with the provisions of any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency;

WHEREAS, the filing office for Uniform Commercial Code (UCC) filings is the Clerk of Court's office, except in Orleans Parish where it is the Recorder of Mortgages office;

WHEREAS, the filing of UCC-3 and UCC-3F and subsequent filings are required by law to be filed in the same Clerk of Court's office (or Recorder of Mortgages office in Orleans Parish) as the original financing statement;

WHEREAS, Hurricane Katrina and its aftermath, and Hurricane Rita rendered several Clerk of Court offices and the Orleans Parish Recorder of Mortgages office inoperable and/or not fit for occupancy, rendering strict compliance with the law impossible;

WHEREAS, R.S. 1:55 provides dates in which the courts are closed due to an emergency situation are considered to be legal holidays;

WHEREAS, certain commerce can continue if filings are permitted to take place with alternate sites;

WHEREAS, R.S. 35:191, requires a notary public to be commissioned and bonded in his or her parish of residence and R.S. 35:202 requires that such notary file annual reports with the Secretary of State office on or before the anniversary date of his or her commission;

WHEREAS, Hurricane Katrina and its aftermath, and Hurricane Rita has resulted in several parishes of southeast and southwest Louisiana being subject to mandatory or voluntary evacuations and thousands of residents thereafter securing temporary residency outside of their original parish;

WHEREAS, the Secretary of State has requested that the governor suspend the requirement that certain UCC filings be filed in the same parish as the original financing statement and that such notary, with temporary residence outside of their original parish, not be required to file additional bonds nor be assessed penalties for late annual report filings.

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

SECTION 1: Until October 25, 2005, or the appropriate Clerk of Court's office becomes operational, all future UCC filings and subsequent UCC filings required to be filed in the parishes of Jefferson, Plaquemines, St. Bernard, St. Tammany, and Washington and in the Recorder of Mortgages in Orleans Parish, may be filed in any operational Clerk of Court office within the state of Louisiana.

SECTION 2: The residents of the parishes of Jefferson, Plaquemines, Orleans, St. Bernard, St. Tammany, and Washington who hold a commission of notary in those parishes may exercise the functions of a notary public within the parish of their temporary residence without additional bonding requirements provided such notary registers his or her temporary address with the Secretary of State's office.

SECTION 3: Enforcement of annual report late penalties as provided in R.S. 35:202(B) shall be suspended against any resident of the parishes of Jefferson, Orleans, Plaquemines, St. Bernard, St. Tammy, and Washington during the time period of Friday, August 26, 2005, and October 25, 2005.

SECTION 4: Also until October 25, 2005, or the appropriate Clerk of Court's office becomes operational, all future UCC filings and subsequent UCC filings required to be filed in the parishes of Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, and Vermilion may be filed in any operational Clerk of Court office within the state of Louisiana.

SECTION 5: The residents of the parishes of Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, and Vermilion who hold a commission of notary in those parishes may exercise the functions of a notary public within the parish of their temporary residence without additional bonding requirements provided such notary registers his or her temporary address with the Secretary of State's office.

SECTION 6: Enforcement of annual report late penalties as provided in R.S. 35:202(B) shall be suspended against any resident of the parishes of Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, and Vermilion during the time period of Tuesday, September 20, 2005, and October 25, 2005.

SECTION 7: Sections 1, 2 and 3 of this Order shall be applicable from the Monday, August 29, 2005, and Sections 4, 5 and 6 of this Order shall be applicable from Tuesday, September 20, 2005;

SECTION 8: Executive Order No. KBB 2005-30, issued on September 7, 2005, as amended by Executive Order No. KBB 2005-42, issued on September 22, 2005 are hereby terminated and rescinded.

SECTION 9: This Order is effective upon signature and shall continue in effect until Tuesday, October 25, 2005, unless 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 6th day of October, 2005.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Al Ater
Secretary of State
0510#113

EXECUTIVE ORDER KBB 05-57

Temporary Transitional Housing on State Property

WHEREAS, pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, et seq., a state of emergency was declared through Proclamation No. 48 KBB 2005, as amended, and Proclamation No. 54 KBB 2005, and Proclamation No. 53 KBB 2005;

WHEREAS, the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, et seq., confers upon the governor of the state of Louisiana emergency powers to deal with emergencies and disasters, including those caused by fire, flood, earthquake, hurricane or other natural or man-made causes, to ensure that preparations of this state will be adequate to deal with such emergencies or disasters, and to preserve the lives and property of the citizens of the state of Louisiana;

WHEREAS, Hurricane Katrina struck the southeastern part of the state of Louisiana and Hurricane Rita struck the southwestern part of the state causing severe

and extensive flooding and other damage, rendering thousands of our citizens temporarily without housing;

WHEREAS, in addition to housing totally destroyed by the storms and flooding, Hurricanes Katrina and Rita has also resulted in the disruption of essential utilities, including water and electric, in several areas of the southern part of the state which has led to dangerous and unsanitary conditions in housing partially damaged;

WHEREAS, many Louisiana citizens displaced from their homes are currently living with family and friends or in hurricane evacuation shelters or hotels and motels located throughout the state and throughout the country;

WHEREAS, R.S. 29:724(D)(2) authorizes the governor during a state of emergency to utilize all available resources of the state government and of each political subdivision of the state as reasonably necessary to cope with the disaster or emergency;

WHEREAS, R.S. 29:724(D)(9) specifically authorizes the governor to issue executive orders necessary to make provision for the availability and use of temporary emergency housing; and

WHEREAS, it has become necessary to utilize available and vacant state property for purposes of temporary transitional housing for Louisiana's thousands of displaced citizens whose housing was destroyed or seriously damaged by the storms and its aftermath until such time as the evacuees are able to return to their homes or obtain alternate long-term housing;

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

SECTION 1: State-owned property may be used for temporary, transitional housing for displaced Louisiana evacuees. Any local ordinance which purports to prohibit the use of such property for residential purposes is hereby suspended.

SECTION 2: Nothing in this Order shall be construed to waive any other restrictions, or required permits, construction code standards or similar standards established to promote the health, safety, and welfare of Louisiana citizens who will be residing in such temporary, transitional housing.

SECTION 3: Permitting and inspection agencies are hereby directed to prioritize requests by contractors, state agencies or the Federal Emergency Management Agency (FEMA) for permits and inspections that directly relate to such temporary, transitional housing in order to expedite the readiness of such housing. Inspections and processes required to be performed for issuance of necessary permits allowing the placement and construction of temporary housing shall:

A. Be performed within three business days; or

B. Be specifically documented by the permitting authority as to why the proposed plan for emergency housing cannot be accomplished, or permit can not be issued to the requesting authority in writing.

SECTION 4: All departments, commissions, boards, offices, entities, agencies, and officers of the state of Louisiana, or any political subdivision thereof, are authorized and directed to cooperate with the implementation of the provisions of this Order.

SECTION 5: 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 Louisiana, at the Capitol, in the city of Baton Rouge, on this 6th day of October, 2005.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Al Ater
Secretary of State
0510#114

EXECUTIVE ORDER KBB 05-58

Emergency Suspensions to Assist in Meeting Educational Needs of Louisiana Students

WHEREAS, the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721 et seq., confers upon the governor of the state of Louisiana emergency powers to deal with emergencies and disasters, including those caused by fire, flood, earthquake or other natural or man-made causes, to ensure that preparations of this state will be adequate to deal with such emergencies or disasters, and to preserve the lives and property of the citizens of the state of Louisiana;

WHEREAS, Hurricane Katrina and Hurricane Rita struck the state of Louisiana causing severe flooding and damage to the southern part of the state, which has threatened the safety, health, and security of the citizens of the state of Louisiana, along with private property and public facilities;

WHEREAS, pursuant to Proclamation No. 48 KBB 2005, as amended by Proclamation No. 54 KBB 2005, and Proclamation No. 53 KBB 2005, a state of emergency was declared for the entire state and is currently in effect;

WHEREAS, as a direct consequence of the disaster and evacuation, many Louisiana schools were damaged or destroyed and are currently inoperable. Thousands of public school students are unable to attend the schools in the school district in which they resided prior to the hurricanes and such students have temporarily enrolled in other school districts throughout the state. However, many of these students will return to the school district in which they resided prior to the hurricanes in need of an operational school to attend;

WHEREAS, La. Constitution Art. VIII §1 states that the Louisiana Legislature shall provide for the education of the people of the state and shall establish and maintain a public educational system. In addition to local public school boards, charter schools, created pursuant to La. R.S. 17:3971, et seq., may fulfill this obligation;

WHEREAS, Charter schools are required to comply with various statutory and regulatory provisions governing the operation of their schools. The State Board of Elementary and Secondary Education and the Louisiana Department of Education also incur responsibilities under

certain regulatory statutes governing charter schools and the chartering process;

WHEREAS, R.S. 29:724(D(1) authorizes the governor to suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business, or the orders, rules, or regulations of any state agency, if strict compliance with the provisions of any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency; and

WHEREAS, the State Board of Elementary and Secondary Education (hereafter "BESE") has requested the suspension of certain charter school provisions within Title 17 of the Louisiana Revised Statues in order to facilitate the use of charter schools to assist in meeting the educational needs of Louisiana students. Certain provisions of law prevent the rapid expansion of charter schools by either requiring a process that extends over a period of time or by establishing a requirement of law to which the charter cannot comply due to the disaster;

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

SECTION 1: The following provisions in Title 17 of the Louisiana Revised Statutes are hereby suspended:

A. R.S. 17:1990(F) to the extent that it specifies students eligible to enroll in and attend a charter school;

B. R.S. 17:3973(2)(b)(iv) to the extent that it provides that prior to the creation of a Type 4 charter to convert a preexisting school, it shall be approved by the professional faculty and staff of the preexisting school and approved by the parents or guardians of children enrolled in the school as provided in R.S. 17:3983(C);

C. R.S. 17:3973(2)(b)(v) to the extent that it specifies students eligible to enroll in and attend a charter school;

D. R.S. 17:3983 (A)(3)(a) to the extent that it establishes timelines for the application for and approval of a charter school;

E. R.S. 17:3983 (A)(4)(c) to the extent that it establishes a timeline for the approval of a charter school application;

F. R.S. 17:3983(A)(4)(f) to the extent that it establishes a timeline for the charter school to begin operation;

G. R.S. 17:3991(C)(1)(b) to the extent that it establishes a timeline for an application process; and

H. R.S. 17:3996(B)(4) to the extent that it requires compliance with a minimum number of instructional minutes and instructional days in a school year.

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 Louisiana, at the Capitol, in the city of Baton Rouge, on this 7th day of October, 2005.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Al Ater
Secretary of State
0510#115

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry
Office of the Commissioner

Antimicrobial Pest Control (LAC 7:XXIII.125)

The Commissioner of Agriculture and Forestry adopts by emergency regulation, the following amendment to an existing regulation clarifying which commercial applicators may engage in antimicrobial pest control using restricted use pesticides. These rules are being adopted in accordance with R.S. 3:3202 (A) and the emergency rule provisions of R.S. 49:953 B of the Administrative Procedure Act.

The flooding and other water damage inflicted by Hurricane Katrina on the state of Louisiana coupled with Louisiana's climate has caused the pandemic growth of microbial organisms, such as toxic black mold. This pandemic growth of microbial organisms is creating a serious health risk to all persons who come into contact with such organisms. These microbial organisms have been declared to be a pest under the Louisiana Pesticide Law and are, therefore, subject to being controlled by licensed commercial applicators using restricted use pesticides.

However, confusion has arisen as to whether pest control operators licensed by the Structural Pest Control Commission are commercial applicators who may engage in antimicrobial pest control. The commissioner has, therefore, determined that this Emergency Rule is necessary to alleviate the confusion and to ensure that there are sufficient licensed commercial applicators to help bring the pandemic growth of microbial organisms under control and reduce the health risk to the citizens of this state. The presence of adequate numbers of commercial applicators, including pest control operators, licensed by this state will help ensure that citizens requiring antimicrobial pest control will receive such services from reputable persons answerable to a state regulatory body. The presence of licensed commercial applicators will also help reduce the risk of Louisiana citizens being "ripped off" by sham operators, thereby reducing further economic loss to citizens who can least afford further economic loss.

The commissioner has, therefore, determined that this Emergency Rule is necessary to protect the health of Louisiana citizens and to help reduce economic loss by citizens and residents who cannot afford any further economic loss. This Rule becomes effective upon signature, September 16, 2005, and will remain in effect 120 days, unless renewed by the commissioner or until permanent rules are promulgated.

Title 7
AGRICULTURE AND ANIMALS
Part XXIII. Pesticide
Chapter 1. Advisory Commission on Pesticides
Subchapter F. Certification
§125. Certification of Commercial Applicators

A. - B.2.h.iv. ...

v. Antimicrobial Pest Control (Subcategory 8e). This subcategory is for commercial applicators, including those in Category 7a found at LAC 7:XXIII.125.B.2.g.i, engaged in antimicrobial pest control using restricted use pesticides.

B.2.h.vi. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3242 and R.S. 3:324.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:179 (April 1983), amended LR 10:193 (March 1984), amended by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, LR 18:953 (September 1992), LR 19:735 (June 1993), LR 20:641 (June 1994), LR 21:928 (September 1995), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 23:193 (February 1997), LR 24:280 (February 1998), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 28:39 (January 2002), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 32:

Bob Odom
Commissioner

0510#004

DECLARATION OF EMERGENCY

Department of Civil Service
Civil Service Commission

Suspension of Deadlines

On its meeting on September 14, 2005, the State Civil Service Commission adopted the following Rule on emergency basis.

2.15 Suspension of Deadlines

All deadlines imposed by these rules are suspended until the state of emergency resulting from Hurricane Katrina is terminated. This Rule shall apply retroactively to August 29, 2005.

Explanation

By Executive Order KBB 2005-32, the Governor suspended all statutes establishing deadlines in legal proceedings in courts, administrative agencies, and boards from August 29, 2005 through September 25, 2005. This proposed rule parallels the Executive Order and moots the issue of whether the Executive Order includes the Civil Service Rules.

Rationale

Hurricane Katrina has made it impossible for agencies and employees to meet the deadlines established by the Civil Service Rules. Without this proposed rule, some of those deadlines would already have run.

Anne S. Soileau
Acting Director

0510#005

DECLARATION OF EMERGENCY

Department of Economic Development
Office of the Secretary

Angel Investor Tax Credit Program
(LAC 13:I.Chapter 33)

The Department of Economic Development, Office of the Secretary, pursuant to the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), adopts the following Rules of the Angel Investor Tax Credit Program, in order to create LAC 13:Part I.Chapter 33. This Emergency Rule shall become effective on October 10, 2005, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act, or until a final Rule is promulgated in accordance with law, whichever occurs first.

The Department of Economic Development, Office of the Secretary, has found an immediate need to provide Rules for the Angel Investor Tax Credit Program pursuant to R.S. 47:6020 through 6020.4, since no such Rules exist at this time. Without these Emergency Rules the public welfare may be harmed as the result of the failure to enhance the growth and stability of Louisiana's entrepreneurial business environment by making available ready sources of capital necessary to support this environment, and the loss of business investment and economic development projects creating or retaining jobs that would improve the standard of living and enrich the quality of life for citizens of this state.

Title 13
ECONOMIC DEVELOPMENT
Part I. Financial Incentive Programs
Chapter 33. Angel Investor Tax Credit

§3301. General

A. The intent of the Angel Investor Tax Credit Program Act of 2005 (Act 400 of 2005; R.S. 47:6020 through 6020.4, the provisions of which shall hereinafter be referred to as "Act 400") is to enhance the entrepreneurial business environment and raise ready sources of capital for this environment through encouraging third parties to invest in early stage wealth-creating businesses expanding the economy of the state, enlarging the quality jobs available in Louisiana to retain the presence of young people in Louisiana. The purpose of these rules is to provide, on an emergency basis, definition of key terms provided for by the statute in order to advise the public and to provide for the efficient administration of the statute while the entirety of the rules are promulgated pursuant to the Louisiana Administrative Procedure Act. These provisions are to be read in pari materiae with Act 400 and shall be superseded upon final promulgation of the rules in accordance with applicable statutes. 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. 47:6020 through 6020.4 and R.S. 36:104.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 32:

§3303. Accredited Investor

A. An *accredited investor* shall be defined as:

1. an angel pool as determined by the secretary, all of whose participants shall be accredited investors;

2. a natural person who has individual net worth, or joint net worth with the person's spouse, that exceeds $1,000,000 at the time of the purchase;

3. a natural person with income exceeding $200,000 in each of the two most recent years or joint income with a spouse exceeding $300,000 for those years and a reasonable expectation of the same income level in the current year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6020 through 6020.4 and R.S. 36:104.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 32:

§3305. Louisiana Entrepreneurial Business

A. A Louisiana Entrepreneurial Business shall be defined as those businesses approved by the secretary under Act 400 and that meet the following requirements.

1. A business shall provide the secretary with a business plan that includes all appropriate long and short term forecasts and contingencies of business operations, including research and development, profit, loss and cash flow projections and details of expenditure of angel investor funding in accordance with Act 400 and shall also include the following:

a. the principal business operations of the business are located in Louisiana, including Louisiana as the primary place of employment for the employees of the business;

b. demonstrating a plan or progression through which more than fifty percent of its sales will be from outside of Louisiana;

c. that the business is to operate as a person defined as an "employer" within the meaning of R.S. 51:2453(1)(b)(i) through (v), (c), and (d), and in §1105.A.1 through A.5 of Chapter 11.Quality Jobs Program.

2. The secretary shall also find that the business is not a business primarily engaged in the business of retail sales, real estate, professional services, gaming or gambling, natural resource extraction or exploration, or financial services including venture capital funds.

3. Such other findings by the secretary as shall be consistent with Act 400, provided that under no circumstances shall the secretary's certification of the applicant as a Louisiana Entrepreneurial Business be considered or implied to be an endorsement of the business or any investment in that business and the applicant shall so advise all investors of this fact.

B. Approval of the secretary shall be obtained upon application by letter that submits the above business plan together with the Louisiana taxpayer identification number of the business and all other information regarding those items necessary to qualify the investment in the business for the angel tax credit as provided for by Act 400 addressed to the Secretary of Economic Development, Post Office Box 94185, Baton Rouge, LA 70802-9185. 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 Louisiana Entrepreneurial Business. The secretary's certification of the business shall include the Louisiana taxpayer identification number of the business.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6020 through 6020.4 and R.S. 36:104.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 32:

§3307. The Angel Investor Tax Credit

A. The following rules shall be applicable to investments by accredited investors in Louisiana Entrepreneurial Businesses.

1. By January 31, 2006, Louisiana Entrepreneurial Businesses certified by the secretary shall, by affidavit of its chief financial officer, provide the secretary with the list of those accredited investors, the Louisiana taxpayer identification number of the accredited investors and the amount of their investment in accordance with the statute and these rules, who have invested in the business provided that the business shall report up to and no more than $2,000,000 total for the calendar year 2005 that shall have been invested by accredited investors in the manner prescribed by Act 400 in order to obtain a tax credit for the accredited investors of no more than $1,000,000 total for the tax year ending December 31, 2005.

2. All tax credit amounts reported to the secretary shall be fully credited to the accredited investor unless the total of all such investments shall exceed $10,000,000 and the total of such credits shall exceed $5,000,000 in which case the secretary shall prorate the total amount of investment and tax credits earned and advise each accredited investor of the amount of his credit for the tax year ending December 31, 2005 no later than February 28, 2006.

3. The secretary shall provide the accredited investor with all other necessary and appropriate certificates as provided by statute and as shall assist the Department of Revenue in its determination of applicability of the credit. No credit certificates shall be issued until after a determination has been made as to whether or not there is a necessity for prorating of the credits as provided above. When issued, the certificates shall include the Louisiana taxpayer identification number of the accredited investor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6020 through 6020.4 and R.S. 36:104.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 32:

Michael J. Olivier
Secretary

0510#064

DECLARATION OF EMERGENCY

Department of Economic Development
Office of the Secretary

Small Entrepreneurship (Hudson Initiative) Certification Program (LAC 19:VIII.Chapters 1 and 3)

The Department of Economic Development, Office of the Secretary, pursuant to the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), adopts the following Rules of the Small Entrepreneurship (Hudson Initiative) Certification Program, in order to create LAC 19:VIII.Chapters 1 and 3. This Emergency Rule shall become effective on October 5, 2005, and shall remain in effect for the maximum period allowed under the Act, or until a final Rule is promulgated in accordance with law, whichever occurs first.

The Department of Economic Development, Office of the Secretary, has found an immediate need to provide rules for the certification of businesses as a "Small Entrepreneurship" pursuant to the mandate of R.S. 39:2006 and R.S. 51:931, since no such rules exist at this time. Without these Emergency Rules the public welfare may be harmed as the result of the failure to facilitate the growth and stability of Louisiana's economy by fostering utilization by state interests of the business offerings available for state procurement and public contracts from Louisiana's small entrepreneurships, and the loss of small business investment and economic development projects creating or retaining jobs that would improve the standard of living and enrich the quality of life for citizens of this state.

Title 19
CORPORATIONS AND BUSINESS
Part VIII. Small Entrepreneurship (Hudson Iniatiative) Certification Program
Chapter 1. General Provisions

§101. Statement of Policy

A. In accordance with the provisions of R.S. 39:2006 and R.S. 51:931, the Department of Economic Development's Small Entrepreneurship (Hudson Initiative) Certification Program [SE(HI) Certification Program] through its designee or its staff administers these regulations which are intended to prescribe the procedures for qualifying and certifying a business as a "Small Entrepreneurship" to facilitate access to state procurement and public contracts and encourage business opportunities for small entrepreneurships.

B. Certifications that a business is a "Small Entrepreneurship" are not to be construed as an entitlement for any business locating or located in Louisiana either to such a certification, to any public contract, or to any proceeds from any state contract; and the Secretary of the Department of Economic Development, the Director, or his or their designee, the SE(HI) Certification Program, or its designee or staff, shall have the discretion to determine whether or not each particular applicant or application meets the criteria for the certification as provided herein; and in all such circumstances, the exercise of that discretion shall be deemed to be a final determination of such certification status.

C. In no way whatsoever shall the sex, race, birth, age, physical condition, religious beliefs, political ideas, or affiliations of a business' owners or officers be considered as a factor in determining whether a business receives certified status.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:2006 and R.S. 51:931.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 32:

§103. Purpose

A. The purposes and intent of this program are to provide the maximum opportunity for Small Entrepreneurships to become so certified as Small Entrepreneurships and thereby become eligible to participate in a competitive modern business economy, to facilitate their access to state procurement and public contracts, and encourage business opportunities for such small entrepreneurships. These purposes shall be accomplished by providing a program for the certification of a business as a "Small Entrepreneurship".

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:2006 and R.S. 51:931.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 32:

§105. Definitions

A. When used in these regulations, the following terms shall have meanings as set forth below.

Applicant—an individual, firm or business that seeks to be certified as a Small Entrepreneurship.

*Certification*Cthe determination and acknowledgement that a business qualifies for designation as a Small Entrepreneurship.

Designee—the person designated by the Secretary or by the Director to act in his absence.

*Director*Cthe Director of the Small Entrepreneurship (Hudson Initiative) Certification Program designated by the Secretary of the Department of Economic Development.

*Firm*Ca business that seeks to be or that has been certified as a Small Entrepreneurship.

Full Time—employed and working in the firm at least 35 hours per week on a regular basis.

*Program*Cthe Small Entrepreneurship (Hudson Initiative) Certification Program [SE(HI) Certification Program] in the Department of Economic Development.

Secretary—the Secretary of the Department of Economic Development.

*Small Entrepreneurship (SE)*Cany business or firm organized for profit, including any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other legal entity which meets all of the criteria for certification by the Secretary of the Department of Economic Development as specified in R.S. 39:2006A, as it may be amended from time to time. A nonprofit organization is not a Small Entrepreneurship for purposes of this program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:2006 and R.S. 51:931.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 32:

Chapter 3. Certification

§301. Eligibility Requirements for Certification

A. A Small Entrepreneurship (SE) is a firm independently owned and operated; not dominant in its field of operations, which shall be determined by consideration of the business' number of employees, volume of business, financial resources, competitive status, and ownership or control of materials, processes, patents, license agreements, facilities, and sales territory; is owned by and has officers who are citizens or legal residents of the United States, all of whom are domiciled in Louisiana, and who maintain the principal business office in Louisiana; and together with its affiliate entities, has fewer that 50 full-time employees with average annual gross receipts not exceeding $5,000,000 per year for construction operations and $3,000,000 per year for non-construction operations, for each of the previous three tax years. Eligibility requirements include meeting all of the criteria specified in R.S. 39:2006.A, as it may be amended from time to time. In order to participate and continue to participate in the program, an individual or firm must meet and continue to meet all such eligibility requirements or criteria.

B. Small Entrepreneurship (SE). For purposes of the program, an individual or legal entity that meets all of the criteria specified in R.S. 39:2006.A, as it may be amended from time to time, may be certified as a Small Entrepreneurship.

C. Requirement for Certification. Applicants for certification as a Small Entrepreneurship must submit to the SE(HI) Certification Program office of the Department of Economic Development a written application, on a form prepared by the SE(HI) Certification Program, or its designee or staff, providing financial and other background information, and certifying as to the applicant's eligibility requirements or criteria as specified in R.S. 39:2006.A, as it may be amended from time to time, including an affidavit signed, dated, and notarized attesting to the correctness of the information provided and to the authenticity of all supporting documentation or information which may be provided by the applicant pursuant to the request of the SE(HI) Certification Program, or its designee or staff; and if requested by the SE(HI) Certification Program, or its designee or staff, the applicant must also furnish, within a reasonable time as established by the SE(HI) Certification Program, or its designee or staff, applicant's most recent financial statements, Federal and State tax returns, a copy of its most recently filed Louisiana Dept. of Labor (LDOL) ES-4 form, and any other appropriate supporting documentation or information as may be requested or required by the SE(HI) Certification Program, or its designee or staff.

D. Any records, writings, accounts, reports, documents, financial information, tax information, proprietary business information and other materials that are in their nature considered to be confidential and are designated as confidential or proprietary by those firms, businesses or individuals submitting, delivering or transmitting the same, pursuant to request, for the purposes of allowing the SE(HI) Certification Program, or its designee or staff, to investigate and/or examine these firms, businesses or individuals pertaining to its statutory duties, shall be considered and maintained as confidential and proprietary information within the meaning of R.S. 44:4.(3). The SE(HI) Certification Program, its designee and staff, shall use all reasonable precautions to maintain such confidentiality and they are not to disclose such confidential information to any third party except as permitted or as required by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39: 2006 and R.S. 51:931.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 32:

§303. Responsibility for Applying

A. It is the responsibility of any individual or business wishing to participate in the program to complete the appropriate written application and required certification process. Failure to provide complete, true, accurate or timely any requested additional supporting information may result in the rejection of the application.

B. Application and certification materials will be distributed by the SE(HI) Certification Program, or its designee or staff, upon written or verbal request. Written or verbal requests for application and certification materials

should be directed to the SE(HI) Certification Program office in the Department of Economic Development in Baton Rouge.

C. Certification as a Small Entrepreneur (SE) also does not constitute compliance with any other laws or regulations and does not relieve any firm of its obligations under other laws or regulations. Certification as a Small Entrepreneurship also does not constitute any determination by the SE(HI) Certification Program, its designee or staff, that the firm is a responsible one according to R.S. 39:1505 or R.S. 39:1601, or that the firm is capable of performing any work of any kind.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:2006 and R.S. 51:931.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 32:

§305. Certification Application Procedure

A. The applicant must submit an application to the SE(HI) Certification Program office in the Department of Economic Development in Baton Rouge, containing a signed, dated, and notarized affidavit attesting to the correctness of the information provided in the application and to the authenticity of all supporting documentation or information which may be provided by the applicant pursuant to the request of the SE(HI) Certification Program, or its designee or staff, and attesting to the applicant's eligibility requirements or criteria as specified in R.S. 39:2006A, as it may be amended from time to time.

B. The SE(HI) Certification Program, through its designee or staff, shall review the application, and if it is found to be incomplete or if further information is needed (such as, for example, applicant's most recent financial statements, Federal and State tax returns, a copy of its most recently filed Louisiana Dept. of Labor (LDOL) ES-4 form, and any other appropriate supporting documentation or information as may be requested or required by the SE(HI) Certification Program, or its designee or staff), the SE(HI) Certification Program designee or staff will contact the applicant business and request such additional information. If the applicant does not respond with the further requested information within 15 days, the application will be denied. If the application is found to be sufficient, or if the application along with the additional information provided is found to be sufficient, a determination shall be made by the SE(HI) Certification Program, or its designee or staff, as to whether or not the applicant business will be certified as a Small Entrepreneur.

C. The director, or his designee, shall notify the applicant in writing of the decision whether or not to grant such SE certification; and if such SE certification is to be granted, a written certification as to such status in appropriate form, as determined by the director or his designee, shall be provided to the applicant business.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:2006 and R.S. 51:931.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 32:

§307. Duration of Certification; Graduation Through Growth

A. The amount of time that a firm may be granted certification by the SE(HI) Certification Program is unlimited until the firm graduates by growing to exceed the eligibility requirements for certification.

B. Retention of the firm in the program depends upon the passing of time, the firm's growth and progress toward successfulness and the attainment of its business goals, its willingness and ability to cooperate with and follow through on recommendations of the SE(HI) Certification Program designee or staff.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:2006 and R.S. 51:931.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 32:

§309. Verification of Eligibility; Reports by Certified Small Businesses; Evaluation

A. Verification of Eligibility. The SE(HI) Certification Program, or its designee or staff, may take any reasonable means at any time to confirm an applicant's eligibility or a certified firm's continued eligibility, such as by investigation, letter, telephone, contact with other governmental and/or state agencies, including but not limited to the Department of Labor, and any other persons, companies, suppliers, or by either announced or unannounced site inspections.

B. Report Form. By letter, or on forms which may be identified or prescribed by the SE(HI) Certification Program, or its designee or staff, certified businesses shall continue to report periodically and at times specified by the SE(HI) Certification Program, or its designee or staff, their financial position and attainment of the business' performance goals. Failure to report or failure to report on a timely basis, as required or requested by the SE(HI) Certification Program, or its designee or staff, may result in the business' termination of its SE certification and from the program.

C. Notification of Changes. To continue participation, a certified firm shall provide the SE(HI) Certification Program, or its designee or staff, with a written statement of any changes in its address, telephone number, ownership, control, financial status, major changes in the nature of the operation, or any other appropriate supporting documentation or information as may be requested or required by the SE(HI) Certification Program, or its designee or staff, including, if requested by the SE(HI) Certification Program, or its designee or staff, updated financial information, Federal and State tax returns, copies of DOL ES-4 Forms, and including an affidavit (signed, dated, and notarized) attesting to the authenticity of all of the aforesaid supporting documentation and attesting to the applicant's eligibility or the certified business' continued eligibility requirements or criteria as specified in R.S. 39:2006.A, as it may be amended from time to time. Failure to do so may be grounds for the firm's termination of eligibility and certification, and termination from the program.

D. Evaluation. The SE(HI) Certification Program, or its designee or staff, as necessary, shall evaluate and continue to evaluate the information provided and/or otherwise obtained to determine a business' progress, growth and dominance in its field of operations, number of employees, volume of business, areas of improvement, the firm's financial resources, competitive status, ownerships, status of owners and officers, and generally the firm's continued eligibility for its continued SE certification and continued participation in the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:2006 and R.S. 51:931.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 32:

§311. Deception Relating to Certification of a Small Entrepreneurship

A. Any individual or business found guilty of deception relating to certification of a Small Entrepreneurship (SE) will be denied its SE certification, or have its already approved certification revoked and shall be discharged from the program, and will not be eligible to reapply under the business name involved in the deception or under any business with which such individual(s) or business may be associated or affiliated.

B. In the event an applicant or certified business knowingly files a false statement in its application or in any other filing, the applicant or the certified business and/or its representatives may be guilty of the offense of filing false public records, and may be subject to the penalty provided for in R.S. 14:133. In the event an applicant or a certified business and/or its representative is reasonably believed to have filed a false statement in its application or any other filing, the SE(HI) Certification Program, or its designee or staff, is authorized to notify the District Attorney of East Baton Rouge Parish, Louisiana, and may also notify any other appropriate law enforcement personnel, so that an appropriate investigation may be undertaken with respect to the false statement and the application of any state funds to the application for other filing.

C. The SE(HI) Certification Program or its designee or staff shall have and retain the right, and shall have the authority, but not the obligation, to require and/or conduct full investigations, at any time and from time to time, including but not limited to full financial and performance audits of any applicant, certified business or SE firm, including all relevant accounts, records and documents of the individual or business.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:2006 and R.S. 51:931.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 32:

§313. Departmental Listing; Availability

A. The department shall maintain a listing of all certified Small Entrepreneurships which shall be updated monthly. The listing shall be available on the Internet and shall also be available in written form upon written request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:2006 and R.S. 51:931.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 32:

§315. Departmental Reporting

A. The department shall report annually to the commissioner of administration with respect to the graduation rates for businesses which grew to exceed the eligibility requirements for certification in the most recently concluded fiscal year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:2006 and R.S. 51:931.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 32:

Michael J. Olivier
Secretary

0510#024

DECLARATION OF EMERGENCY

Student Financial Assistance Commission
Office of Student Finanical Assistance

Scholarship/Grant ProgramsCHurricane Katrina Exceptions, Deferments (LAC 28:IV.2103 and 2105)

The Louisiana Student Financial Assistance Commission (LASFAC) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend 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)).

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 resulting in students being unable to attend college and thereby depriving these students of a postsecondary education and weakening the state's workforce. LASFAC has determined that these emergency rules are necessary to prevent imminent financial peril to the welfare of the affected students.

This declaration of emergency is effective September 28, 2005, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act. (SG0665E)

Title 28
EDUCATION
Part IV. Student Financial AssistanceCHigher Education Scholarship and Grant Programs
Chapter 21. Miscellaneous Provisions and Exceptions

§2103. Circumstances Warranting Exception to the Initial and Continuous Enrollment Requirements

A. - F. …

G. Hurricane Katrina Exceptions

1. For the purposes of this Subsection, *displaced students* are TOPS recipients and students eligible for TOPS whose Home of Record is in one of the Louisiana Parishes Affected by Hurricane Katrina or who were enrolled at one of the following eligible college or university campuses on August 26, 2005:

a. University of New Orleans;
b. Dillard University;
c. Delgado Community College;
d. Nunez Community College;
e. Louisiana State University Health Sciences Center at New Orleans;
f. Southern University at New Orleans;
g. Loyola University;
h. New Orleans Baptist Theological Seminary;
i. Our Lady of Holy Cross College;
j. Tulane University;
k. Xavier University;
l. St. Josephs Seminary College;
m. Louisiana Technical College, Jefferson Campus;

n. Louisiana Technical College, Sidney N. Collier Campus;

o. Louisiana Technical College, Slidell Campus;

p. Louisiana Technical College, Sullivan Campus;

q. Louisiana Technical College, West Jefferson Campus;

2. For the purposes of this subsection, *home of record*C

a. the domiciliary address of a dependent student's parent or court ordered custodian; or

b. the domiciliary address of an independent student.

3. For the purposes of this Subsection, Louisiana Parishes affected by Hurricane Katrina are as follows:

a. Jefferson;

b. Lafourche;

c. Orleans;

d. Plaquemine;

e. St. Bernard;

f. St. Tammany;

g. Tangipahoa;

h. Washington.

4.a. For the 2005-2006 academic year (college), displaced students are not required to enroll as full time students, to maintain continuous enrollment or to earn at least 24 hours during the 2005-2006 academic year (college).

b. Displaced students may enroll on a part-time basis in an eligible college or university without losing TOPS eligibility. Upon request by the student, the eligible college or university may bill for these part-time students.

c. The terms of eligibility for a displaced student whose part-time enrollment is paid by TOPS will be reduced by one full semester (term) for each semester (term) (part or full-time) paid.

d. institutions must document the displaced student's request for part-time payment of the award.

e. If a displaced student enrolls in an eligible college or university during the 2005-2006 academic year (college) and receives grades, those grades will be included in calculating the student's cumulative grade point average.

5.a. For the 2005-2006 academic year (college), students who are not displaced students, but due to the effects of Hurricane Katrina were unable to enroll for the first time as full time students by the deadline or to enroll as full time students or to maintain continuous enrollment or to earn at least 24 hours during the academic year (college), may submit a request for an exception in accordance with §2103.D, based on one of the circumstances listed in §2103.E, or in accordance with the following procedures for the circumstances described in this Subsection.

i. The student should file the application for exception as soon as it is known that the student will not meet one or more of the continuing eligibility requirements to ensure the earliest reinstatement of the award. The student must submit the application for exception no later than six months after the date of the notice of cancellation. The deadline for filing the exception shall be prominently displayed on the notice of cancellation. If the applicant for an exception is a dependent student, a parent or court ordered custodian of the dependent student may submit the application for exception on behalf of the applicant.

ii. If determined eligible for an exception, the recipient will be reinstated if he or she enrolls in the first fall, winter or spring semester or term immediately following the exception ending date.

b. Hurricane Katrina Exception (for other than displaced students)

i. Definition. The effects of Hurricane Katrina prevented the student/recipient from enrolling as a full time student or continuing enrollment or earning 24 hours during the 2005-2006 academic year (college).

ii. Certification Requirements. The student/recipient must submit:

(a). a completed exception request form; and

(b). a written statement detailing Hurricane Katrina's impact on the student and/or the student's immediate family (mother, father, custodian, siblings and/or spouse and children), which prevented the student from meeting the continuation requirements, including the length of the impact; and

(c). documentation corroborating the student's statement (examples: photographs of damage; insurance, FEMA, fire and/or police reports; statements from public officials; statements from family members or other persons with actual knowledge; receipts and invoices for work done and materials purchased).

iii. Maximum Length of Exception. Up to two consecutive semesters (three consecutive quarters).

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), amended LR 23:1648 (December 1997), repromulgated LR 24:647 (April 1998), amended LR 24:1916 (October 1998), LR 26:1015 (May 2000), LR 26:2002 (September 2000), LR 27:36 (January 2001), repromulgated LR 27:1866 (November 2001), amended LR 27:1875 (November 2001), LR 28:46 (January 2002), LR 28:449 (March 2002), LR 28:775 (April 2002), LR 28:2330 and 2333 (November 2002), LR 29:126 (February 2003), LR 29:2373 (November 2003), LR 29:2373 (November 2003), LR 30:785 (April 2004), LR 30:1167 (June 2004), LR 31:1060 (May 2005), LR 32:

§2105. Repayment Obligation, Deferment and Cancellation

A. - B.8.b. …

9. Hurricane Katrina Deferments

a. For the purposes of this subsection, *displaced students* are recipients of the Rockefeller State Wildlife Scholarship or TOPS Teacher Award who are in repayment status and whose home of record is in the Louisiana parishes affected by Hurricane Katrina.

b. For the purposes of this subsection, *home of record*C

i. the domiciliary address of a dependent student's parent or court ordered custodian; or

ii. the domiciliary address of an independent student.

c. For the purposes of this subsection, Louisiana parishes affected by Hurricane Katrina are as follows:

i. Jefferson;

ii. Lafourche;

iii. Orleans;

iv. Plaquemine;

v. St. Bernard;

vi. St. Tammany;

vii. Tangipahoa;

viii. Washington.

d. The loan payments for displaced students are deferred and accrual of interest is suspended from August 26, 2005 through August 31, 2006.

e. For the period of August 26, 2005, through August 31, 2006, recipients of the Rockefeller State Wildlife Scholarship or TOPS Teacher Award who are in repayment status and who are not displaced students, but who are unable to repay their loan during the academic year (college) due to the effects of Hurricane Katrina, may submit a request for deferment of payments and suspension of accrual of interest in accordance with §2105.D, based on one of the circumstances listed in §2103.B.1 through 8 or the following circumstance.

i. The effects of Hurricane Katrina prevented the student/recipient from making payments during the period of August 26, 2005, through August 31, 2006.

ii. Certification Requirements. The student/recipient must submit:

(a). a completed exception request form; and

(b). a written statement detailing Hurricane Katrina's impact on the student and/or the student's immediate family (mother, father, custodian, siblings and/or spouse and children), which prevented the student from meeting the repayment requirements, including the length of the impact; and

(c). documentation corroborating the student's statement (examples: photographs of damage; insurance, FEMA, fire and/or police reports; statements from public officials; statements from family members or other persons with actual knowledge; receipts and invoices for work done and materials purchased).

iii. Maximum Length of ExceptionCthrough August 31, 2006.

C. - H.2. …

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 24:649 (April 1998), amended LR 24:1918 (October 1998), LR 26:1603 (August 2000), repromulgated LR 27:1868 (November 2001), amended LR 28:775 (April 2002), LR 30:781 (April 2004), LR 30:1167 (June 2004), LR 30:1168 (June 2004), LR 32:

George Badge Eldredge
General Counsel

0510#017

DECLARATION OF EMERGENCY

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Expedited Penalty Agreement
(LAC 33:I.801, 803, 805, and 807)(OS054E6)

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, which allow the Department of Environmental Quality to use emergency procedures to establish rules, and of R.S. 30:2011 and 2074, which allow the department to establish standards, guidelines, and criteria, to promulgate rules and regulations, and to issue compliance schedules, the secretary of the department hereby declares that an emergency action is necessary in order to implement expedited penalty agreements.

This is a renewal of Emergency Rule OS054E5, which was effective on June 10, 2005, and published in the *Louisiana Register* on June 20, 2005. This version of the Emergency Rule adds a new Stage II Vapor Recovery violation and edits the violations to LAC 33:III.2132.F, adds new Underground Storage Tank (UST) violations and penalty amounts for LAC 33:XI.711 and 905, and updates the UST citations. The Emergency Rule will abate the delay in correcting minor and moderate violations of the Environmental Quality Act. Delays in enforcement reduce the effectiveness of the action, unnecessarily utilize resources, and slow down the enforcement process. In the past three years alone, the Enforcement Division has received 8,139 referrals and has issued 4,259 actions. Currently strained budget and resource issues pose imminent impairment to addressing minor and moderate violations. This Rule will provide an alternative penalty assessment mechanism that the department may utilize, at its discretion, to expedite penalty agreements in appropriate cases. The report to the Governor by the Advisory Task Force on Funding and Efficiency of the Louisiana Department of Environmental Quality recommended this action as a pilot program. The legislature approved the report and passed Act 1196 in the 2003 Regular Session allowing the department to promulgate rules for the program. This Emergency Rule allows the operation of the pilot program to commence immediately, without the delay and inflexibility of a permanent Rule. It will also allow the department to gather information to formulate a long-term rule and to evaluate the environmental and public health benefits and the social and economic costs of such a program in order to justify these requirements for the permanent rule.

This Emergency Rule is effective on October 8, 2005, and shall remain in effect for a maximum of 120 days or until a final rule is promulgated, whichever occurs first. For more information concerning OS054E6 you may contact the Regulation Development Section at (225) 219-3550.

This Emergency Rule is available on the Internet at www.deq.louisiana.gov under Rules and Regulations, and 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.

Title 33
ENVIRONMENTAL QUALITY
Part I. Office of the Secretary
Subpart 1. Departmental Administrative Procedures
Chapter 8. Expedited Penalty Agreement
§801. Definitions

*Agency Interest Number*Ca site-specific number assigned to a facility by the department that identifies the facility in a distinct geographical location.

*Qualifying Permit Parameter*Cfor the purposes of these regulations: total organic carbon (TOC), chemical oxygen

demand (COD), dissolved oxygen (DO), 5-day biochemical oxygen demand (BOD_5), 5-day carbonaceous biochemical oxygen demand ($CBOD_5$), total suspended solids (TSS), fecal coliform, and/or oil and grease.

*Expedited Penalty Agreement*Ca predetermined penalty assessment issued by the department and agreed to by the respondent, which identifies violations of minor or moderate gravity as determined by LAC 33:I.705, caused or allowed by the respondent and occurring on specified dates, in accordance with R.S. 30:2025(D).

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 31:

§803. Purpose

A. The purpose of this Chapter is to provide an alternative penalty assessment mechanism that the department may utilize, at its discretion, to expedite penalty assessments in appropriate cases. This Chapter:

1. addresses common violations of minor or moderate gravity;

2. quantifies and assesses penalty amounts for common violations in a consistent, fair, and equitable manner;

3. ensures that the penalty amounts are appropriate, in consideration of the nine factors listed in R.S. 30:2025(E)(3)(a);

4. eliminates economic incentives for noncompliance for common minor and/or moderate violations; and

5. ensures expeditious compliance with environmental regulations.

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 31:

§805. Applicability

A. Limit of Penalty Amount. The total penalty assessed for the expedited penalty agreement shall not exceed $1,500 for one violation or $3,000 for two or more violations per penalty assessed.

B. Departmental Discretion. The secretary of the department or his designee, at his sole discretion, may propose an expedited penalty agreement for any violation described in LAC 33:I.807.A and considered in accordance with Subsection E of this Section. The expedited penalty agreement shall specify that the respondent waives any right to an adjudicatory hearing or judicial review regarding violations identified in the signed expedited penalty agreement. The respondent must concur with and sign the expedited penalty agreement in order to be governed by this Chapter and R.S. 30:2025(D).

C. Notification to the Respondent. The expedited penalty agreement shall serve as notification to the respondent of the assessed penalty amount for the violations identified on the specified dates.

D. Certification by the Respondent. By signing the expedited penalty agreement, the respondent certifies that all cited violations in the expedited penalty agreement have been or will be corrected, and that the assessed penalty amount has been or will be paid, within 30 days of receipt of the expedited penalty agreement.

E. Nine Factors for Consideration. An expedited penalty agreement may be used only when the following criteria for the nine factors for consideration are satisfied.

1. The History of Previous Violations or Repeated Noncompliance. The violation identified in the expedited penalty agreement is not the same as or similar to a violation that occurred at the facility under the same agency interest number, and that was identified in any compliance order, penalty assessment, settlement agreement, or expedited penalty agreement issued to the respondent by the department within the previous two years. Site-specific enforcement history considerations will only apply to expedited penalty agreements.

2. The Nature and Gravity of the Violation. The violation identified is considered to be minor or moderate with regard to its nature and gravity.

a. The violation identified in the expedited penalty agreement deviates somewhat from the requirements of statutes, regulations, or permit; however, the violation exhibits at least substantial implementation of the requirements.

b. The violation identified is isolated in occurrence and limited in duration.

c. The violation is easily identifiable and corrected.

d. The respondent concurs with the violation identified and agrees to correct the violation identified and any damages caused or allowed by the identified violation within 30 days of receipt of the expedited penalty agreement.

3. The Gross Revenues Generated by the Respondent. By signing the expedited penalty agreement, the respondent agrees that sufficient gross revenues exist to pay the assessed penalty and correct the violation identified in the expedited penalty agreement within 30 days of receipt of the expedited penalty agreement.

4. The Degree of Culpability, Recalcitrance, Defiance, or Indifference to Regulations or Orders. The respondent is culpable for the violation identified, but has not shown recalcitrance, defiance, or extreme indifference to regulations or orders. Willingness to sign an expedited penalty agreement and correct the identified violation within the specified timeframe demonstrates respect for the regulations and a willingness to comply.

5. The Monetary Benefits Realized Through Noncompliance. The respondent's monetary benefit from noncompliance for the violation identified shall be considered. The intent of these regulations is to eliminate economic incentives for noncompliance.

6. The Degree of Risk to Human Health or Property Caused by the Violation. The violation identified does not present actual harm or substantial risk of harm to the environment or public health. The violation identified is isolated in occurrence or administrative in nature, and the violation identified has no measurable detrimental effect on the environment or public health.

7. Whether the Noncompliance or Violation and the Surrounding Circumstances Were Immediately Reported to the Department and Whether the Violation or Noncompliance Was Concealed or There Was an Attempt to Conceal by the Person Charged. Depending upon the type of violation, failure to report may or may not be applicable to this factor. If the respondent concealed or attempted to

conceal any violation, the violation shall not qualify for consideration under these regulations.

8. Whether the Person Charged Has Failed to Mitigate or to Make a Reasonable Attempt to Mitigate the Damages Caused by the Noncompliance or Violation. By signing the expedited penalty agreement, the respondent states that the violation identified and the resulting damages, if any, have been or will be corrected. Violations considered for expedited penalty agreements are, by nature, easily identified and corrected. Damages caused by any violation identified are expected to be nonexistent or minimal.

9. The Costs of Bringing and Prosecuting an Enforcement Action, Such as Staff Time, Equipment Use, Hearing Records, and Expert Assistance. Enforcement costs for the expedited penalty agreement are considered minimal. Enforcement costs for individual violations are covered with the penalty amount set forth for each violation in LAC 33:I.807.

F. Schedule. The respondent must return the signed expedited penalty agreement and payment for the assessed amount to the department within 30 days of the respondent's receipt of the expedited penalty agreement. If the department has not received the signed expedited penalty agreement and payment for the assessed amount by the close of business on the thirtieth day after the respondent's receipt of the expedited penalty agreement, the expedited penalty agreement may be withdrawn at the department's discretion.

G. Extensions. If the department determines that compliance with the cited violation is technically infeasible or impracticable within the initial 30-day period for compliance, the department, at its discretion, may grant one 30-day extension in order for the respondent to correct the violation cited in the expedited penalty agreement.

H. Additional Rights of the Department

1. If the respondent signs the expedited penalty agreement, but fails to correct the violation identified, pay the assessed amount, or correct any damages caused or allowed by the cited violation within the specified timeframe, the department may issue additional enforcement actions including, but not limited to, a civil penalty assessment and may take any other action authorized by law to enforce the terms of the expedited penalty agreement.

2. If the respondent does not agree to and sign the expedited penalty agreement, the department may notify the respondent that a formal civil penalty is under consideration. The department may then pursue formal enforcement action against the respondent in accordance with R.S. 30:2025(C), 2025(E), 2050.2, and 2050.3.

I. Required Documentation. The department shall not propose any expedited penalty agreement without an affidavit, inspection report, or other documentation to establish that the respondent has caused or allowed the violation to occur on the specified dates.

J. Evidentiary Requirements. Any expedited penalty agreement issued by the department shall notify the respondent of the evidence used to establish that the respondent has caused or allowed the violation to occur on the specified dates.

K. Public Enforcement List. The signed expedited penalty agreement is a final enforcement action of the department and shall be included on the public list of enforcement actions referenced in R.S. 30:2050.1(B)(1).

L. Date of Issuance. When an expedited penalty agreement is issued in conjunction with a Notice of Potential Penalty, the following issuance dates shall apply.

1. If the respondent does not wish to participate in the expedited penalty agreement program, the issuance date for the Notice of Potential Penalty portion of the document shall be 30 days after the respondent receives the document.

2. If the respondent does wish to participate in the expedited penalty agreement program, the issuance date for the expedited penalty agreement portion of the document shall be the date the administrative authority signs the document for the second, and final, time.

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 31:

§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			
Violation	**Citation**	**Amount**	**Frequency**
ALL MEDIA			
Failure to provide timely notification for the unauthorized discharge of any material that exceeds the reportable quantity but does not cause an emergency condition.	LAC 33.I.3917.A	$300	Per day
Failure to provide timely written notification for the unauthorized discharge of any material that exceeds the reportable quantity but does not cause an emergency condition.	LAC 33:I.3925.A	$300	Per day
AIR QUALITY			
40 CFR Part 70 General Permit conditions (Part K, L, M, or R): Failure to timely submit any applicable annual, semiannual, or quarterly reports.	LAC 33:III.501.C.4	$500	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
Failure to submit an Annual Toxic Emissions Data Inventory in a timely and complete manner when applicable.	LAC 33:III.5107	$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
Failure to provide notice of change of ownership within 90 days after the change.	LAC 33:III.517.G	$200	Per occurrence

Expedited Penalties			
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
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
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 maintain records for glycol dehydrators subject to LAC 33:III.2116.	LAC 33:III.2116.F	$250	Per occurrence
Failure to submit an initial perchloroethylene inventory report.	LAC 33:III.5307.A	$250	Per occurrence
Failure to submit perchloroethylene usage reports by July 1 for the preceding calendar year.	LAC 33:III.5307.B	$250	Per occurrence
Stage II Vapor Recovery			
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 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	$500	Per occurrence
Failure to post operating instructions on each pump.	LAC 33:III.2132.E	$100	Per occurrence
Failure to maintain equipment, tag defective equipment "out of order," or perform daily inspections and accurately record results.	LAC 33:III.2132.F	$300	Per occurrence
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	$300	Per compliance inspection

Expedited Penalties			
Violation	**Citation**	**Amount**	**Frequency**
Failure to use and/or diligently maintain, in proper working order, all air pollution control equipment installed at the site.	LAC 33:III.905	$100	Per occurrence
HAZARDOUS WASTE			
Used Oil			
Failure of a used oil generator to stop, contain, clean up, and/or manage a release of used oil, and/or repair or replace leaking used oil containers or tanks prior to returning them to service.	LAC 33:V.4013.E	$500	Per occurrence
Failure of a used oil transfer facility to stop, contain, clean up, and/or manage a release of used oil, and/or repair or replace leaking used oil containers or tanks prior to returning them to service.	LAC 33:V.4035.H	$500	Per occurrence
Failure of a used oil processor or re-refiner to stop, contain, clean up, and/or manage a release of used oil, and/or repair or replace leaking used oil containers or tanks prior to returning them to service.	LAC 33:V.4049.G	$500	Per occurrence
Failure of a used oil burner to stop, contain, clean up, and/or manage a release of used oil, and/or repair or replace leaking used oil containers or tanks prior to returning them to service.	LAC 33:V.4069.G	$500	Per occurrence
SOLID WASTE			
Waste Tires			
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	$200	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	$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 remit waste tire fees to the state on a monthly basis as specified.	LAC 33:VII.10519.D	$100	Per occurrence
Failure to post required notifications to the public.	LAC 33:VII.10519.E	$100	Per occurrence
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	$100	Per occurrence

Expedited Penalties			
Violation	**Citation**	**Amount**	**Frequency**
Failure to keep waste tires or waste tire material covered as specified.	LAC 33:VII.10519.H	$200	Per occurrence
Failure to segregate waste tires from new or used tires offered for sale.	LAC 33:VII.10519.M	$200	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 maintain completed manifests for three years and have them available for inspection.	LAC 33:VII.10533.D	$200	Per occurrence
Failure to collect appropriate waste tire fee for each new tire sold.	LAC 33:VII.10519.C, 10535.B	$200	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	$300	Per occurrence
Failure of out-of-state or out-of-country transporters to comply with state waste tire regulations.	LAC 33:VII.10523.E	$200	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
Failure by collectors or collection centers to follow the requirements for receipt of tires.	LAC 33:VII.10527.A	$200	Per occurrence
Failure of collection center operators to meet the standards in LAC 33:VII.10525.D.1-10 and 12-24.	LAC 33:VII.10527.B	$300	Per occurrence
Failure of recyclers to provide notification of their existence and obtain an identification number.	LAC 33:VII.10531.A	$300	Per occurrence
Failure of waste tire or waste tire material recyclers to meet the requirements of LAC 33:VII.10525.D.	LAC 33:VII.10531.B	$300	Per occurrence
Failure to follow the requirements for manifest discrepancies.	LAC 33:VII.10533.C	$300	Per occurrence
WATER QUALITY			
Failure to properly operate and maintain a facility:			
1. Failing to provide disinfection at any applicable sewage treatment plant.	LAC 33:IX.2701.E	$200	Per occurrence
2. Failing to operate/maintain backup or auxiliary systems within a treatment system.	LAC 33:IX.2701.E	$200	Per occurrence
3. Failing to implement adequate laboratory controls and quality assurance procedures.	LAC 33:IX.2701.E	$200	Per occurrence

Expedited Penalties			
Violation	**Citation**	**Amount**	**Frequency**
4. Allowing excessive solids to accumulate within a treatment system.	LAC 33:IX.2701.E	$200	Per occurrence
5. Allowing sample holding times to expire before analyzing any sample and failing to follow approved methods when collecting and analyzing samples.	LAC 33:IX.2701.J.4	$200	Per occurrence
Failure to sample any permit parameter in accordance with an LPDES permit.	LAC 33:IX.2701.A	$100	Per permit parameter
Failure to submit Discharge Monitoring Reports (DMRs):			
1. Failing to submit DMRs, for any outfall, required by any LPDES individual permit.	LAC 33:IX.2701.L.4.a	$200	Per submittal (per outfall)
2. Failing to submit DMRs, for any outfall, required by any LPDES general permit.	LAC 33:IX.2701.L.4.a	$100	Per submittal (per outfall)
Exceedance of LPDES permit effluent limitations:			
1. Exceeding the daily maximum or weekly average concentration permit limit for any qualifying permit parameter.	LAC 33:IX.2701.A	$150	Per permit parameter (per exceedance)
2. Exceeding a monthly average concentration permit limit for any qualifying permit parameter.	LAC 33:IX.2701.A	$300	Per permit parameter (per exceedance)
3. Exceeding a daily maximum or weekly average mass loading permit limit for any qualifying permit parameter.	LAC 33:IX.2701.A	$200	Per permit parameter (per exceedance)
4. Exceeding a monthly average mass loading permit limit for any qualifying permit parameter.	LAC 33:IX.2701.A	$400	Per permit parameter (per exceedance)
5. Discharging effluent outside of the permitted range for pH (grab samples only).	LAC 33:IX.2701.A	$150	Per grab sample (per exceedance)
Failure to develop and/or implement a Spill Prevention and Control Plan (SPC):			
1. Failing to develop an SPC plan for any applicable facility.	LAC 33:IX.905	$500	Per occurrence
2. Failing to implement any component of an SPC plan.	LAC 33:IX.905	$100	Per occurrence
Failure to submit certain reports as required by an LPDES permit, including 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 Plan (SWPPP), Pollution Prevention Plan (PPP), or Best Management Practices/Plan (BMP) as required by an LPDES permit.	LAC 33:IX.2701.A	$500	Per occurrence

Expedited Penalties			
Violation	**Citation**	**Amount**	**Frequency**
Failure to submit a Notice of Intent for coverage under the LPDES Storm Water Permit for Construction Activities or under the LPDES Storm Water Multi-Sector General Permit.	LAC 33:IX.2511.C.1	$1,000	Per occurrence
Failure to provide notification of facility changes as required by an LPDES permit.	LAC 33:IX.2701.L.1	$300	Per occurrence
Failure to submit a noncompliance report required by an LPDES individual permit.	LAC 33:IX.2701.L.7	$200	Per occurrence
Failure to submit a noncompliance report required by an LPDES general permit.	LAC 33:IX.2701.L.7	$100	Per occurrence
Unauthorized discharge of oil field wastes, including produced water.	LAC 33:IX.1901.A	$1,000	Per occurrence
Unauthorized discharge of oily fluids.	LAC 33:IX.1701.B	$1,000	Per occurrence
UNDERGROUND STORAGE TANKS			
Failure to register existing or new USTs containing regulated substances.	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	$300	Per inspection
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
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	$250 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	$100 and completion of a department -sponsored compliance class	Per inspection
Failure to provide spill and/or overfill prevention equipment as specified.	LAC 33:XI.303.B.3	$300 and completion of a department -sponsored compliance class	Per inspection

Expedited Penalties			
Violation	**Citation**	**Amount**	**Frequency**
Failure to upgrade existing UST systems to new system standards as specified.	LAC 33:XI.303.C	$500 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
Failure to report, investigate, and/or clean up any spills and overfills.	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 UST systems equipped with cathodic protection systems inspected for proper operation as specified.	LAC 33:XI.503.A.2	$500 and completion of a department -sponsored compliance class	Per inspection
Failure to inspect UST systems with impressed current cathodic protection systems 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 follow reporting requirements, 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	$300 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	$750 and completion of a department -sponsored compliance class	Per inspection
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

Expedited Penalties			
Violation	**Citation**	**Amount**	**Frequency**
Failure to satisfy the additional requirements for petroleum UST systems as specified.	LAC 33:XI.703.B	$350 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.2 or 707	$500 and completion of a department-sponsored compliance class	Per occurrence
Failure to investigate and confirm all suspected releases of regulated substances that require 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

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 31:

Mike D. McDaniel, Ph.D.
Secretary

0510#025

DECLARATION OF EMERGENCY

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Mercury-Containing Devices and
Electronics as Universal Wastes
(LAC 33:V.109, 305, 1501, 2201, 3801, 3806, 3810, 3813, 3821, 3823, 3841, 3843, 3845, 3855, 3877, 4301, and 4911)
(HW088E)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), which allows the Department of Environmental Quality to use emergency procedures to establish rules, and under the authority of R.S. 30:2011, the secretary of the department hereby declares that an emergency action is necessary in order to implement rules to add mercury-containing devices and electronics, including cathode ray tubes (CRTs), destined for recycling as universal wastes.

Under the Emergency Rule, metallic mercury must be recovered, recycled, reused, or sequestered, and not incinerated, landfilled, or released in any way; electronics, including CRTs, must be sent for dismantling and recovery of components, in a way that prevents releases to the environment. Large amounts of debris and waste must be disposed of as a result of Hurricanes Katrina and Rita. It is desirable to divert as many electronics and mercury-containing devices as possible away from disposal sites. By including these wastes as universal wastes, the opportunity exists to divert these items for recycling, thereby improving the environment and simplifying recovery. The department has proposed a rule to promulgate these regulation changes.

This Emergency Rule is effective on October 3, 2005, and shall remain in effect for a maximum of 120 days or until a final rule is promulgated, whichever occurs first. For more information concerning HW088E you may contact the Regulation Development Section at (225) 219-3550.

This Emergency Rule is available on the Internet at www.deq.louisiana.gov under Rules and Regulations, and 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.

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

§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 video display component of a television or computer monitor. An *intact CRT* means a *CRT* remaining within the monitor, whose vacuum has not been released. A *broken CRT* means CRT glass removed from the monitor after the vacuum has been released.

* * *

CRT Glass Manufacturing Facility—a facility or part of a facility that uses a furnace to manufacture CRT glass.

CRT Processing—conducting all of the following activities:

1. receiving broken or intact CRTs;
2. intentionally breaking intact CRTs or further breaking or separating broken CRTs;
3. sorting or otherwise managing glass removed from CRTs; and
4. cleaning the coatings off the glass removed from CRTs.

* * *

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:

Chapter 3. General Conditions for Treatment, Storage, and Disposal Facility Permits

§305. Scope of the Permit

A. - C.11.b. …

c. mercury-containing equipment as described in LAC 33:V.3806;

d. thermostats as described in LAC 33:V.3807;

e. lamps as described in LAC 33:V.3809;

f. electronics as described in LAC 33:V.3810; and

g. antifreeze as described in LAC 33:V.3811;

C.12. - 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 Secretary, Legal Affairs Division, LR 31:

Chapter 15. Treatment, Storage, and Disposal Facilities

§1501. Applicability

A. - C.11.b. ...

c. mercury-containing equipment as described in LAC 33:V.3806;

d. thermostats as described in LAC 33:V.3807;

e. lamps as described in LAC 33:V.3809;

f. electronics as described in LAC 33:V.3810; and

g. antifreeze as described in LAC 33:V.3811; or

C.12. - 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:

Chapter 22. Prohibitions on Land Disposal

Subchapter A. Land Disposal Restrictions

§2201. Purpose, Scope, and Applicability

A. - I.5.b. ...

c. mercury-containing equipment as described in LAC 33:V.3806;

d. thermostats as described in LAC 33:V.3807;

e. lamps as described in LAC 33:V.3809;

f. electronics as described in LAC 33:V.3810; and

g. antifreeze as described in LAC 33:V.3811.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:398 (May 1990), LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 18:723 (July 1992), LR 21:266 (March 1995), LR 22:22 (January 1996), LR 23:568 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:300 (February 1998), LR 24:666 (April 1998), LR 24:1107 (June 1998), LR 24:1724 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1799 (October 1999), LR 27:711 (May 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:

Chapter 38. Universal Wastes

Subchapter A. General

§3801. Scope and Applicability

A. This Chapter establishes requirements for managing batteries as described in LAC 33:V.3803, pesticides as described in LAC 33:V.3805, mercury-containing equipment as described in LAC 33:V.3806, thermostats as described in LAC 33:V.3807, lamps as described in LAC 33:V.3809, electronics as described in LAC 33:V.3810, and antifreeze as described in LAC 33:V.3811. This Chapter provides an alternative set of management standards in lieu of regulations under LAC 33:V.Subpart 1.

B. - 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 23:568 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1108 (June 1998), LR 24:1496 (August 1998), LR 24:1759 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:712 (May 2001), repromulgated LR 27:1518 (September 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:

§3806. Applicability—Mercury-Containing Equipment

A. Mercury-Containing Equipment Covered under this Chapter. The requirements of this Chapter apply to persons managing mercury-containing equipment as described in LAC 33:V.3813, except equipment listed in Subsection B of this Section. Discarded mercury-containing equipment that is not managed under LAC 33:V.Chapter 41 is subject to management under this Chapter.

B. Mercury-Containing Equipment Not Covered under this Chapter. The requirements of this Chapter do not apply

to persons managing the following categories of mercury-containing equipment:

1. discarded mercury-containing equipment that is managed under LAC 33:V.Chapter 41;

2. mercury-containing equipment, as described in LAC 33:V.3813, that is not yet waste under LAC 33:V.4901, including equipment that does not meet the criteria for waste generation in Subsection C of this Section; and

3. mercury-containing equipment, as described in this Chapter, that is not hazardous waste. Mercury-containing equipment is hazardous waste if it exhibits one or more of the characteristics identified in LAC 33:V.4903.

C. Generation of Waste Mercury-Containing Equipment

1. Used mercury-containing equipment becomes a waste on the date it is discarded (e.g., when sent for reclamation).

2. Unused mercury-containing equipment becomes a waste on the date the handler decides to discard it.

3. Mercury-containing equipment is a universal waste if destined for recycling.

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 31:

§3810. Applicability—Electronics

A. Electronics Covered under This Chapter. The requirements of this Chapter apply to persons managing electronics as described in LAC 33:V.3813, except material listed in Subsection B of this Section. Discarded electronics not managed under LAC 33:V.Chapter 41 are subject to management under this Chapter.

B. Electronics Not Covered under This Chapter. The requirements of this Chapter do not apply to persons managing the following categories of electronics:

1. discarded electronics that are managed under LAC 33:V.Chapter 41;

2. electronics, as described in LAC 33:V.3813, that are not yet wastes under LAC 33:V.4901, including those that do not meet the criteria for waste generation in Subsection C of this Section; and

3. electronics, as described in this Chapter, that are not hazardous waste. Electronics are hazardous waste if they exhibit one or more of the characteristics identified in LAC 33:V.4903.

C. Generation of Waste Electronics

1. An electronic device becomes a waste on the date it is discarded (e.g., when sent for reclamation).

2. An unused electronic device becomes a waste on the date the handler decides to discard it.

3. An electronic device is a universal waste if destined for recycling or dismantling.

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 31:

§3813. Definitions

* * *

Destination Facility—a facility that treats, disposes of, or recycles a particular category of universal waste, except those management activities described in LAC 33:V.3821.A and C and 3843.A and C. A facility at which a particular category of universal waste is only accumulated is not a destination facility for purposes of managing that category of universal waste. A facility that shreds, crushes, heats, or otherwise treats electronic devices or any component thereof, shall be considered a destination facility. A facility shall not be considered a destination facility if it engages in the disassembly or demanufacturing of electronics:

1. for the purpose of marketing, reselling, reusing, or recycling the components of the electronic devices; and

2. without treating the electronic devices or any component thereof.

Electronics or *Electronic Device*—a device or a component thereof that contains one or more circuit boards and is used primarily for data transfer or storage, communication, or entertainment purposes, including but not limited to, desktop and laptop computers, computer peripherals, monitors, copying machines, scanners, printers, radios, televisions, camcorders, video cassette recorders (VCRs), compact disc players, digital video disc players, MP3 players, telephones, including cellular and portable telephones, and stereos.

* * *

Large Quantity Handler of Universal Waste—a *universal waste handler* (as defined in this Section) who accumulates 5,000 kilograms or more total of universal waste (batteries, pesticides, mercury-containing equipment, thermostats, lamps, electronics, or antifreeze, calculated collectively) at any time. This designation as a *large quantity handler of universal waste* is retained through the end of the calendar year in which 5,000 kilograms or more total of universal waste is accumulated.

Mercury-Containing Equipment—a device or part of a device (excluding batteries, thermostats, and lamps) that contains elemental mercury necessary for its operation.

* * *

Small Quantity Handler of Universal Waste—a *universal waste handler* (as defined in this Section) who does not accumulate 5,000 kilograms or more total of universal waste (batteries, pesticides, mercury-containing equipment, thermostats, lamps, electronics, or antifreeze, calculated collectively) at any time.

* * *

Universal Waste—any of the following hazardous wastes that are subject to the universal waste requirements of this Chapter:

1. - 2. ...

3. mercury-containing equipment as described in LAC 33:V.3806;

4. thermostats as described in LAC 33:V.3807;

5. lamps as described in LAC 33:V.3809;

6. electronics as described in LAC 33:V.3810; and

7. antifreeze as described in LAC 33:V.3811.

* * *

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 23:570 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1760 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:287 (February 2000), LR 27:302 (March 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:

Subchapter B. Standards for Small Quantity Handlers of Universal Waste

§3821. Waste Management

A. - B.4. ...

C. Universal Waste Thermostats and Mercury-Containing Equipment. A small quantity handler of universal waste shall manage universal waste thermostats or mercury-containing equipment in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

1. a small quantity handler of universal waste shall contain any universal waste thermostat or mercury-containing equipment that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container shall be closed, structurally sound, compatible with the contents of the thermostat or mercury-containing equipment, and shall lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;

2. a small quantity handler of universal waste may remove mercury-containing ampules from universal waste thermostats or mercury-containing equipment, provided the handler:

a. - h. ...

3. a small quantity handler of universal waste who removes mercury-containing ampules from thermostats or mercury-containing equipment shall determine whether the mercury or clean-up residues resulting from spills or leaks, and/or other solid waste generated as a result of the removal of mercury-containing ampules (e.g., remaining thermostat units or mercury-containing equipment) exhibit a characteristic of hazardous waste identified in LAC 33:V.4903:

C.3.a. - D.2. ...

E. Universal Waste Electronics. A small quantity handler of universal waste shall manage universal waste electronics in a way that prevents the release of any universal waste, component of a universal waste, or constituent of a universal waste to the environment, as follows:

1. store all universal waste electronics inside a building with a roof and four walls or in the cargo-carrying portion of a truck, such as in a trailer, in a manner that prevents universal waste electronics from being exposed to the environment and ensures that all universal waste electronics are handled, stored, and transported in a manner that maintains the reuse or recyclability of any such device or component thereof;

2. immediately clean up and place in a container any broken cathode ray tube from a universal waste electronic device. Any such container shall be closed, structurally sound, and compatible with the cathode ray tube and shall be capable of preventing leakage, spillage, or releases of broken cathode ray tubes, glass particles, or other hazardous constituents from such broken tubes, to the environment;

3. shall not shred, crush, heat, or otherwise treat electronics or any component thereof, and shall not break the cathode ray tube in any electronic device. Provided no treatment is occurring, a small quantity handler of universal waste electronics may disassemble electronics for the sole purpose of marketing, reselling, reusing, or recycling components thereof.

F. Universal Waste Antifreeze. A small quantity handler of universal waste shall manage universal waste antifreeze in a way that prevents releases of any universal waste or component of a universal waste to the environment. The universal waste antifreeze shall be contained in one or more of the following:

1. a container that remains closed, structurally sound, and compatible with the antifreeze and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;

2. a container that does not meet the requirements of Paragraph F.1 of this Section, provided that the unacceptable container is overpacked in a container that does meet the requirements of Paragraph F.1 of this Section;

3. a tank that meets the requirements of LAC 33:V.1915.C; or

4. a transport vehicle or vessel that is closed, structurally sound, and compatible with the antifreeze and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

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 23:571 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1760 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:302 (March 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:

§3823. Labeling/Marking

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

4. Universal waste thermostats or mercury-containing equipment (e.g., each thermostat or mercury-containing device), or a container in which the mercury-containing equipment or thermostats are contained, shall be labeled or marked clearly with any one of the following phrases: "Universal Waste—Mercury Thermostat(s)," or "Waste Mercury Thermostat(s)," or "Used Mercury Thermostat(s)"; or "Universal Waste—Mercury-Containing Equipment," or "Waste Mercury-Containing Equipment," or "Used Mercury-Containing Equipment."

5. ...

6. Universal waste electronics, or a container in which the electronics are contained, or each electronic device, package, or pallet containing universal waste electronics, shall be labeled or marked clearly with one of the following phrases: "Universal Waste—Electronics," or "Waste Electronics," or "Used Electronics."

7. Universal waste antifreeze, or a container in which the antifreeze is contained, shall be labeled or marked clearly with any one of the following phrases: "Universal Waste—Antifreeze," or "Waste Antifreeze," or "Used Antifreeze."

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:

Subchapter C. Standards for Large Quantity Handlers of Universal Waste

§3841. Notification

A. - B.3. ...

4. a list of all of the types of universal waste managed by the handler (e.g., batteries, pesticides, mercury-containing equipment, thermostats, lamps, electronics, antifreeze); and

5. a statement indicating that the handler is accumulating more than 5,000 kilograms of universal waste at one time and the types of universal waste (e.g., batteries, pesticides, mercury-containing equipment, thermostats, lamps, electronics, antifreeze) the handler is accumulating above this quantity.

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 23:574 (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 26:2496 (November 2000), amended by the Office of Secretary, Legal Affairs Division, LR 31:

§3843. Waste Management

A. - B.4. ...

C. Universal Waste Thermostats and Mercury-Containing Equipment. A large quantity handler of universal waste shall manage universal waste thermostats or mercury-containing equipment in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

1. a large quantity handler of universal waste shall contain any universal waste thermostat or mercury-containing equipment that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container shall be closed, structurally sound, compatible with the contents of the thermostat or mercury-containing equipment, and shall lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;

2. a large quantity handler of universal waste may remove mercury-containing ampules from universal waste thermostats or mercury-containing equipment provided the handler:

a. - h. ...

3. a large quantity handler of universal waste who removes mercury-containing ampules from thermostats or mercury-containing equipment shall determine whether the mercury or clean-up residues resulting from spills or leaks and/or other solid waste generated as a result of the removal of mercury-containing ampules (e.g., remaining thermostat units or mercury-containing equipment) exhibit a characteristic of hazardous waste identified in LAC 33:V.4903:

C.3.a. - D.2. ...

E. Universal Waste Electronics. A large quantity handler of universal waste shall manage universal waste electronics in a way that prevents the release of any universal waste, component of a universal waste, or constituent of a universal waste to the environment, as follows:

1. store all universal waste electronics inside a building with a roof and four walls or in the cargo-carrying portion of a truck, such as in a trailer, in a manner that prevents universal waste electronics from being exposed to the environment and ensures that all universal waste electronics are handled, stored, and transported in a manner that maintains the reuse or recyclability of any such device or component thereof;

2. immediately clean up and place in a container any broken cathode ray tube from a universal waste electronic device. Any such container shall be closed, structurally sound, and compatible with the cathode ray tube and shall be capable of preventing leakage, spillage, or releases of broken cathode ray tubes, glass particles, or other hazardous constituents from such broken tubes, to the environment;

3. shall not shred, crush, heat, or otherwise treat electronics or any component thereof, and shall not break the cathode ray tube in any electronic device. Provided no treatment is occurring, a large quantity handler of universal waste electronics may disassemble electronics for the sole purpose of marketing, reselling, reusing, or recycling components thereof.

F. Universal Waste Antifreeze. A large quantity handler of universal waste shall manage universal waste antifreeze in a way that prevents releases of any universal waste or component of a universal waste to the environment. The universal waste antifreeze shall be contained in one or more of the following:

1. a container that remains closed, structurally sound, and compatible with the antifreeze and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;

2. a container that does not meet the requirements of Paragraph F.1 of this Section, provided that the unacceptable container is overpacked in a container that does meet the requirements of Paragraph F.1 of this Section;

3. a tank that meets the requirements of LAC 33:V.Chapter 19, except for LAC 33:V.1915.C;

4. a transport vehicle or vessel that is closed, structurally sound, and compatible with the antifreeze and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

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 23:574 (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:

§3845. Labeling/Marking

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

4. Universal waste thermostats or mercury-containing equipment (e.g., each thermostat or mercury-containing device), or a container or tank in which the mercury-containing equipment or thermostats are contained, shall be labeled or marked clearly with any one of the following phrases: "Universal Waste—Mercury Thermostat(s)," or "Waste Mercury Thermostat(s)," or "Used Mercury Thermostat(s)"; or “Universal Waste—Mercury-Containing

Equipment," or "Waste Mercury-Containing Equipment," or "Used Mercury-Containing Equipment."

5. Each lamp or a container or package in which such lamps are contained shall be labeled or marked clearly with any one of the following phrases: "Universal Waste—Lamp(s)," or "Waste Lamp(s)," or "Used Lamp(s)."

6. Universal waste electronics, or a container in which the electronics are contained, or each electronic device, package, or pallet containing universal waste electronics, shall be labeled or marked clearly with one of the following phrases: "Universal Waste—Electronics," or "Waste Electronics," or "Used Electronics."

7. Universal waste antifreeze, or a container in which the antifreeze is contained, shall be labeled or marked clearly with any one of the following phrases: "Universal Waste—Antifreeze," or "Waste Antifreeze," or "Used Antifreeze."

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:

§3855. Tracking Universal Waste Shipments

A. - A.1. ...

2. the quantity of each type of universal waste received (e.g., batteries, pesticides, mercury-containing equipment, thermostats, lamps, electronics, antifreeze); and

A.3. - B.1. ...

2. the quantity of each type of universal waste sent (e.g., batteries, pesticides, mercury-containing equipment, thermostats, lamps, electronics, antifreeze); and

B.3. - 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 23:576 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1762 (September 1998), amended by the Office of the Secretary, Legal Affairs Division, LR 31:

Subchapter E. Standards for Destination Facilities

§3877. Tracking Universal Waste Shipments

A. - A.1. ...

2. the quantity of each type of universal waste received (e.g., batteries, pesticides, mercury-containing equipment, thermostats, lamps, electronics, antifreeze); and

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 23:578 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1762 (September 1998), amended by the Office of the Secretary, Legal Affairs Division, LR 31:

Chapter 43. Interim Status

§4301. Purpose and Applicability

A. - C.13.b. ...

c. mercury-containing equipment as described in LAC 33:V.3806;

d. thermostats as described in LAC 33:V.3807;

e. lamps as described in LAC 33:V.3809;

f. electronics as described in LAC 33:V.3810; and

g. antifreeze as described in LAC 33:V.3811;

C.14. - 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:

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)].

§4911. Conditional Exclusion for Broken Cathode Ray Tubes (CRTs) Undergoing Recycling

A. Prior to processing, broken CRTs are not solid wastes if they are destined for recycling and if they meet the following requirements.

1. Storage. The broken CRTs shall be either:

a. stored in a building with a roof, floor, and walls; or

b. placed in a container (i.e., a package or a vehicle) that is constructed, filled, and closed to minimize identifiable releases to the environment of CRT glass (including fine solid materials).

2. Labeling. Each container in which broken CRT material is contained shall be labeled or marked clearly with one of the following phrases: "Waste Cathode Ray Tube(s)—Contains Leaded Glass," or "Used Cathode Ray Tube(s)—Contains Leaded Glass." It shall also be labeled: "Do Not Mix with Other Glass Materials."

3. Transportation. These 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. These CRTs are subject to the limitations on speculative accumulation as defined in LAC 33:V.109.

B. Requirements for Processing of Broken CRTs. Broken CRTs undergoing *CRT processing* as defined in LAC 33:V.109 are not solid wastes if they meet the following requirements.

1. Storage. 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 manufacturing facility

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. Processed CRT Glass Sent to Other Types of Recycling, except for Use Constituting Disposal. Glass removed from CRTs that is destined for other types of recycling after processing (except use constituting disposal) is not a solid waste if it meets the requirements of Paragraphs A.1-4 of this Section. Imported, processed glass removed from CRTs is subject to these requirements as soon as it enters this state.

E. Use Constituting Disposal. Processed glass removed from CRTs that is used in a manner constituting disposal shall comply with the requirements of Paragraphs A.1-4 of this Section and the applicable requirements of LAC 33:V.4139. Imported, processed glass from CRTs is subject to these requirements as soon as it enters this state.

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:

Mike D. McDaniel, Ph.D.
Secretary

0510#026

DECLARATION OF EMERGENCY

Department of Justice
Office of the Attorney General

Deceptive Practices in Charitable Solicitations
(LAC 16:III.515)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B) which allows the Attorney General to use emergency procedures to establish rules, and under the authority of R.S. 51:1401 et seq. and 51:1901 et seq. The Attorney General hereby declares that an emergency action is necessary to implement rules regarding charitable solicitations due to the aftermath of Hurricane Katrina.

This Emergency Rule is effective September 19, 2005 and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

Title 16
Community Affairs
Part III. Consumer Protection
Chapter 5. Unfair and Deceptive Trade Practices
§515. Charitable Solicitations

A. - E. ...

F.1. All charitable organizations soliciting funds on behalf of victims of Hurricane Katrina shall report on a monthly basis the total amounts collected and expended to the Department of Justice.

2. Failure to do so will constitute an unfair and deceptive trade practice under the Louisiana Unfair Trade Practices and Consumer Protection Law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1401 et seq.

HISTORICAL NOTE: Adopted by the Office of the Governor, Office of Consumer Protection, June, 1977, repealed and promulgated by the Department of Justice, Consumer Protection Section, LR 21:954 (September 1995), amended LR 32:

Charles C. Foti, Jr.
Attorney General

0510#007

DECLARATION OF EMERGENCY

Office of the Governor
Patient's Compensation Fund Oversight Board

Qualified Health Care Provider Services (LAC 37:III.115)

Upon finding that imminent peril to the public health, safety or welfare required adoption of an emergency rule, the Patient's Compensation Fund Oversight Board (Oversight Board), under authority of the Louisiana Medical Malpractice Act, R.S. 40:1299.41 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., adopted this Emergency Rule 1 at its meeting held on September 14, 2005.

On August 26, 2005, Governor Kathleen Babineaux Blanco issued Proclamation No. 48 KBB 2005 and declared the existence of a State of Emergency within the State of Louisiana caused by Hurricane Katrina. This State of Emergency extends from Friday, August 26, 2005 through Sunday, September 25, 2005.

On September 2, 2005, Governor Kathleen Babineaux Blanco issued Executive Order No. KBB 2005-26 and declared a State of Public Health Emergency within the State of Louisiana. This State of Emergency extends from September 2, 2005 until the Order is amended, modified, terminated or rescinded.

On September 19, 2005, Louisiana Insurance Commissioner J. Robert Wooley acknowledged the foregoing and issued Emergency Rule 15 suspending certain statutes and regulations regarding cancellations, non-renewals, reinstatements, premium payments, claim filings and related provisions regarding any and all insurance matters affecting insureds in Louisiana caused by Hurricane Katrina.

Thousands of Louisiana citizens, including many qualified health care providers (QHCPs) enrolled in the Patient's Compensation Fund (Fund or PCF), have suffered damages due to Hurricane Katrina. The health care practices of many QHCPs and the homes of many patients were destroyed precluding the operation of practices, habitation and the delivery of mail. It is believed that this disruption has affected, and will affect for some time, the ability of these QHCPs to timely pay their annual renewal PCF surcharges in full and, as such, may seriously affect the provision of health care services by QHCPs to patients in Louisiana. Hurricane Katrina has created a mass disruption to the normalcy previously enjoyed by QHCPs and patients and produced an immediate threat to the public health, safety, and welfare of Louisiana citizens, both patients and QHCPs alike.

Accordingly, Emergency Rule 1 was adopted by the Oversight Board on September 19, 2005, and shall only apply to certain QHCPs as set forth in this Emergency Rule.

In the ordinary course of business and pursuant to LAC 37:III §517, an insured QHCP is allowed a "grace" period of

30 days in which to pay the annual renewal PCF surcharge in full to the insurer to extend the PCF coverage for another year. Pursuant to this same provision, a self-insured QHCP is required to pay the annual renewal PCF surcharge in full to the PCF prior to the expiration of the prior year's PCF coverage. Hurricane Katrina and its aftermath have produced a disruption in the ability of many QHCPs in these affected areas to timely pay the annual renewal PCF surcharge in full to maintain their enrollment in the Fund. This could result in a QHCP being without PCF coverage or having a gap in PCF coverage. Emergency Rule 1 was adopted to provide emergency relief to the aforementioned QHCPs. Accordingly, it is hereby ordered:

Title 37
INSURANCE
Part III. Patients' Compensation Fund Oversight Board
Chapter 1. General Provisions
§115. Qualified Health Care Provider Services
Emergency Rule 1

A.1. Emergency Rule 1 shall only apply to QHCPs:

a. with operation(s) and/or practice(s) located in one or more of the following fourteen (14) parishes as of August 26, 2005:

i. Jefferson, Lafourche, Livingston, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Washington; and

b. who timely certify to the Oversight Board that the operation(s) and/or practice(s) was/were interrupted by Hurricane Katrina such that they are not providing any health care services in Louisiana as of the day of certification; and

c. whose renewal date or 30 day grace period for payment of the PCF annual renewal surcharge occurs on or after August 26, 2005 but prior to the expiration of this Emergency Rule.

2. For purposes of this Emergency Rule, QHCPs who meet all of the above criteria shall be referred to herein as "affected QHCPs."

B. The Oversight Board's Rules, previously promulgated in the *Louisiana Register*, and the applicable provisions of the PCF's Rate Manual, relating to the requirement to timely pay the applicable annual renewal PCF surcharge in full shall be suspended during the effective period of this Emergency Rule.

C.1. To timely renew PCF coverage during the effective period of this Emergency Rule:

a. an affected QHCP with underlying insurance coverage shall be allowed to pay a partial PCF renewal surcharge payment in the amount of $250 on or before 60 days following the expiration of the prior year's PCF coverage;

b. an affected QHCP that is self-insured shall be allowed to pay a partial PCF renewal surcharge payment in the amount of $250 on or before 60 days following the expiration of the prior year's PCF coverage.

2. These partial payments are the "PCF Policy-Writing Minimum" Amounts set forth in the PCF Rate Manual. During the effective period of this Emergency Rule, affected QHCPs with underlying insurance coverage shall be allowed to pay these partial PCF renewal surcharge payments to their insurer(s) or directly to the PCF; affected QHCPs that are self-insured shall continue to pay the partial PCF renewal surcharge directly payments to the PCF.

D. On or before resuming the provision of any health care services, affected QHCPs shall provide notice to the Oversight Board of such operation(s) and/or practice(s).

E. The balance of the PCF renewal surcharge amount shall be determined by the Oversight Board based on the surcharge rates in effect as of the renewal date. This amount shall be paid on or before 60 days following notification by the affected QHCP to the Oversight Board that health care services are being provided. Failure to pay the balance may result in a gap in PCF coverage. An affected QHCP shall also furnish the required proof of financial responsibility concurrently with the payment of the PCF renewal surcharge balance.

F. The provisions of Emergency Rule 1 shall be liberally construed to effectuate the intent and purposes expressed herein and to afford maximum protection for the affected QHCPs and the citizens of Louisiana.

G. Emergency Rule 1 became effective on the date of its adoption by the Oversight Board, September 14, 2005, and shall continue in full force and effect until December 31, 2005.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44.D(3) and Executive Order No. KBB 05-26.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patients' Compensation Fund Oversight Board, LR 18:168 (February 1992).

Lorraine LeBlanc
Executive Director

0510#006

DECLARATION OF EMERGENCY

Office of the Governor
Patient's Compensation Fund Oversight Board

Qualified Health Care Provider Services
(LAC 37:III.115)

Editor's Note: This Emergency Rule rescinds the September 19, 2005 Emergency Rule and adopts new provisions.

Upon finding that imminent peril to the public health, safety or welfare required adoption of an Emergency Rule, the Patient's Compensation Fund Oversight Board (Oversight Board), under authority of the Louisiana Medical Malpractice Act, R.S. 40:1299.41 et seq. (MMA), as directed by the Governor of Louisiana in Section 10 of Executive Order No. KBB 2005-40, and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., adopted this Emergency Rule 2 at its meeting held on September 27, 2005.

On August 26, 2005, Governor Kathleen Babineaux Blanco issued Proclamation No. 48 KBB 2005 and declared the existence of a State of Emergency within the State of Louisiana caused by Hurricane Katrina. This State of Emergency extended from Friday, August 26, 2005 through Sunday, September 25, 2005.

On September 2, 2005, Governor Kathleen Babineaux Blanco issued Executive Order No. KBB 2005-26 and declared a State of Public Health Emergency within the State of Louisiana. This State of Public Health Emergency extends from September 2, 2005 until the Order is amended,

modified, terminated or rescinded. On September 12, 2005, Governor Kathleen Babineaux Blanco issued Executive Order No. KBB 2005-33 and again declared a State of Public Health Emergency within the State of Louisiana. This State of Public Health Emergency extended retroactively from September 2, 2005 through September 25, 2005.

On September 19, 2005, the Oversight Board adopted Emergency Rule 1 (Title 37, Part III), which implemented a 60 day "grace" period for the payment of a partial Patient's Compensation Fund (PCF or Fund) renewal surcharge by certain PCF qualified health care providers (QHCPs) and the remaining balance of the renewal surcharge to be paid at a later date.

On that same day following the issuance of the Oversight Board's Emergency Rule 1, Governor Kathleen Babineaux Blanco issued Executive Order No. KBB 2005-40 and transferred limited authority to the Commissioner of Insurance, authorizing him to suspend the provisions of any regulatory statute or orders, rules or regulations of the Department of Insurance for purposes of enacting and enforcing, inter alia, Emergency Rule 15 of the Department of Insurance. In this same Executive Order, Governor Kathleen Babineaux Blanco directed the Oversight Board to adopt emergency rules regarding a temporary suspension of the payment of PCF surcharges by QHCPs who reside, practice or operate in disaster affected areas (affected QHCPs) for such PCF coverage to continue.

On September 20, 2005, Louisiana Insurance Commissioner J. Robert Wooley acknowledged the foregoing and issued Emergency Rule 15, thereby suspending certain statutes and regulations regarding cancellations, non-renewals, reinstatements, premium payments, claim filings and related provisions regarding any and all insurance matters affecting certain insureds in Louisiana caused by Hurricane Katrina. On that same day, Governor Kathleen Babineaux Blanco issued Proclamation No. 53 KBB 2005 and declared the existence of a State of Emergency within the State of Louisiana as Hurricane Rita posed an imminent threat to Louisiana. This State of Emergency extends from Tuesday, September 20, 2005 through Thursday, October 20, 2005, unless terminated sooner.

On September 22, 2005, Governor Kathleen Babineaux Blanco issued Proclamation No. 54 KBB 2005, which renewed Proclamation No. 48 KBB 2005 (which said order had declared a State of Emergency within the State of Louisiana). Proclamation No. 54 KBB 2005 effectively extends the State of Emergency from September 25, 2005 through October 25, 2005, unless terminated sooner.

On September 23, 2005, Governor Kathleen Babineaux Blanco issued Executive Order No. KBB 2005-47, which extended Executive Order No. KBB 2005-33 (which said order had declared a State of Public Health Emergency within the State of Louisiana). Executive Order No. KBB 2005-47 effectively extends the State of Public Health Emergency until October 25, 2005.

The MMA and the Oversight Board's rules (Title 37, Part III) require insurers, agents and approved self-insured trust funds (trust fund) to collect PCF surcharges along with insurance premiums and to remit the surcharges to the PCF. In an effort to harmonize the collection of PCF surcharges with the collection of premiums from affected QHCPs by insurers, agents and trust funds, and to provide self-insured QHCPs with the same relief, the Oversight Board rescinded and terminated Emergency Rule 1 and adopted this Emergency Rule 2.

Thousands of Louisiana citizens, including many QHCPs, have suffered damages due to Hurricane Katrina. The health care practices of many QHCPs and the homes of many patients were severely damaged precluding the operation of practices, habitation and the delivery of mail. It is believed that this disruption has affected, and will affect for some time, the ability of these QHCPs to timely pay their annual PCF renewal surcharges and, as such, may seriously affect the provision of health care services by QHCPs to patients in Louisiana.

In the ordinary course of business and pursuant to LAC 37:III.517, a QHCP who is insured by an insurance company or by a trust fund is allowed a "grace" period of 30 days in which to pay the annual PCF renewal surcharge to the insurer, agent or trust fund to extend PCF coverage for another year. Pursuant to this same provision, a self-insured QHCP is required to pay the annual PCF renewal surcharge to the PCF prior to the expiration of the prior year's PCF coverage. Hurricane Katrina and its aftermath have produced a disruption in the ability of many QHCPs in these affected areas to timely pay the annual PCF renewal surcharge to maintain their enrollment in the Fund. This could result in a QHCP being without PCF coverage or having a gap in PCF coverage This Emergency Rule 2 was adopted to provide emergency relief to the affected QHCPs.

Title 37
INSURANCE
Part III. Patients' Compensation Fund Oversight Board
Chapter 1. General Provisions
§115. Qualified Health Care Provider Services Emergency Rule 2

A.1. Emergency Rule 2 shall only apply to QHCPs:

a. who resided in or who maintained operation(s) and/or practice(s) located in one or more of the following 14 parishes as of August 26, 2005 or in one or more of any parish(es) identified by Louisiana Insurance Commissioner J. Robert Wooley in an amendment to Emergency Rule 15 or any subsequent emergency rule regarding insurance matters affecting certain insureds in Louisiana caused by Hurricane Rita: Jefferson, Lafourche, Livingston, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Washington; and

b. whose renewal date or 30 day grace period for payment of the annual PCF renewal surcharge occurs on or after August 26, 2005 but prior to the lifting of the current State of Emergency, and any subsequent State of Emergency, declared by Governor Kathleen Babineaux Blanco with regard to Hurricane Katrina or its aftermath.

2. For purposes of this Emergency Rule, QHCPs who meet all of the above criteria shall be referred to herein as "affected QHCPs" The provisions of this Emergency Rule 2 shall not apply to any health care provider not previously enrolled in the PCF prior to August 26, 2005.

3. The Oversight Board's Rules, previously promulgated in the *Louisiana Register*, and the applicable provisions of the PCF's Rate Manual, to the extent that said regulatory provisions impose upon QHCPs a time limit to

pay the applicable annual PCF renewal surcharges, shall be suspended for affected QHCPs during the effective periods set forth in this Emergency Rule. Except as provided for in Section 2.5, the cancellation of PCF qualification for affected QHCPs for failure to timely pay an annual PCF renewal surcharge is hereby suspended until the lifting of the current State of Emergency, and any subsequent State of Emergency, declared by Governor Kathleen Babineaux Blanco with regard to Hurricane Katrina or its aftermath.

a. PCF surcharges for all affected QHCPs (including self-insured QHCPs and those who are insured by an insurance company or by a trust fund), whose renewal date or 30 day grace period for payment of the annual PCF renewal surcharge occurs on or after August 26, 2005 but prior to the lifting of the current State of Emergency, and any subsequent State of Emergency, declared by Governor Kathleen Babineaux Blanco with regard to Hurricane Katrina or its aftermath (suspension period), shall be due and owing on the date the current State of Emergency, and any subsequent State of Emergency, declared by Governor Kathleen Babineaux Blanco with regard to Hurricane Katrina or its aftermath, is lifted. However, all affected QHCPs shall be allowed a "grace" period until January 1, 2006 to pay the appropriate PCF surcharge (to extend PCF coverage for another year or to purchase a PCF extended reporting endorsement) to the insurer, agent, trust fund or directly to the PCF (in the case of self-insured affected QHCPs). Affected QHCPs shall also furnish the required proof of financial responsibility concurrently with the payment of the appropriate surcharge.

4. In the event an insurer, agent or trust fund collects a renewal surcharge during the suspension period from an affected QHCP, then the renewal surcharge shall be remitted to the PCF consistent with the MMA and the Oversight Board's applicable rules.

5. A cancellation of PCF qualification shall not occur prior to the lifting of the current State of Emergency, and any subsequent State of Emergency, declared by Governor Kathleen Babineaux Blanco with regard to Hurricane Katrina or its aftermath, unless upon the documented written request or written concurrence of the affected QHCP.

6. Unless otherwise cancelled pursuant to the provisions of Paragraph 5 herein, nothing in this Emergency Rule 2 shall be construed to exempt or excuse an affected QCHP from the obligation to pay the applicable PCF surcharge for renewal or for an extended reporting endorsement otherwise due for actual PCF qualification provided during the suspension period.

7. Emergency Rule 2 shall not relieve an affected QHCP from compliance with the MMA and the applicable Oversight Board's rules upon receiving notice of the filing of a medical review panel request (claim) against the affected QHCP.

8. The provisions of Emergency Rule 2 shall be liberally construed to effectuate the intent and purposes expressed herein and to afford maximum protection for the affected QHCPs and the citizens of Louisiana.

8. Emergency Rule 1, issued on September 19, 2005, is hereby rescinded and terminated.

9. Emergency Rule 2 became effective on the date of its adoption by the Oversight Board, September 28, 2005, and shall continue in full force and effect for the duration of the current State of Emergency, and any subsequent State of Emergency, declared by Governor Kathleen Babineaux Blanco with regard to Hurricane Katrina or its aftermath.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44.D(3) and Executive Order No. KBB 05-26.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patients' Compensation Fund Oversight Board, LR 32:

Lorraine LeBlanc
Executive Director

0510#023

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Board of Nursing

Extension of Licenses to Practice as a Registered Nurse
(LAC 46:XLVII.3333 and 4507)

The Louisiana State Board of Nursing hereby adopts the following Emergency Rules governing the renewal of licenses valid through January 31, 2006. These rules are adopted in accordance with R.S. 37:918, 37:920(A) and the Emergency Rules provisions of the Administrative Procedure Act, R.S. 49:953(B), to extend the period of time in which persons licensed to practice as registered nurses and advanced practice registered nurses must renew current licenses and removes the requirements of providing evidence of completion of continuing education for the calendar year 2005.

Hurricane Katrina struck southeast Louisiana on August 29, 2005 and Hurricane Rita struck southwest Louisiana on September 24, 2005 resulting in catastrophic damage. These catastrophes have severely impacted over a million residents, damaged thousands of homes, businesses and medical facilities and the offices of the Louisiana State Board of Nursing. Additionally, these disasters have left many communities without electricity, water and telephone service for extended periods of time.

Many of the state's registered nurses and advanced practice registered nurses have suffered losses of personal property and have been displaced from their residences and places of employment. The lack of resources available to many registered nurses and advanced practice registered nurses will severely limit the ability of many licensees to meet the requirements for renewal of their licenses by January 31, 2006.

The Louisiana State Board of Nursing finds that an imminent peril to the public health, safety and welfare requires the adoption of these Emergency Rules to provide for an extension of licenses issued valid through January 31, 2006 in order to allow registered nurses and advanced practice registered nurses to continue to provide services to hurricane victims and citizens of the state of Louisiana and to give licensees additional time to comply with the requirements for renewal of current licenses.

This Emergency Rule is effective October 5, 2005, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act, or until the promulgation of a permanent Rule, whichever is sooner.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLVII. Nurses: Practical Nurses and Registered Nurses
Subpart 2. Registered Nurses
Chapter 33. General
Subchapter C. Registration and Registered Nurse Licensure
§3333. Renewal of License

A. Every person holding a license to practice as a registered nurse, and intending to practice during the ensuing year, shall renew his license annually prior to the expiration of his license. The board shall furnish an application for renewal of a license to every person who holds a current license. The licensee shall complete the renewal form and return to the board before January 1. Upon receipt of the application and the renewal fee as required under §3341, the board shall verify the accuracy of the application and issue to the licensee a license of renewal for the current year beginning February 1 and expiring January 31. Incomplete applications will be returned. Applications postmarked after December 31 will be considered late and subject to the fee as required under §3341 for late renewals. Failure to renew a license prior to expiration subjects the individual to forfeiture of the right to practice an individual shall notify the board of:

A.1. - B.3. ...

4. Notwithstanding any provision of this section to the contrary, any license to practice as a registered nurse issued valid through January 31, 2006 shall be valid through March 31, 2006.

5. Notwithstanding any provision of this section to the contrary, no evidence of meeting the requirements of §3335 shall be required to renew a license issued valid through January 31, 2006, if said license is renewed on or before March 31, 2006.

C. - D.8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918 and 920.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 7:78 (March 1981), amended by the Department of Health and Hospitals, Board of Nursing, LR 16:1061 (December 1990), LR 23:962 (August 1997), LR 23:963 (August 1997), repromulgated LR 24:1293 (July 1998), amended LR 26:1443 (July 2000), LR 32:

Chapter 45. Advanced Practice Registered Nurses
§4507. Licensure as Advanced Practice Registered Nurse

A. - E.2.d. ...

e. notwithstanding any provision of this section to the contrary, for renewal of an APRN license issued valid through January 31, 2006 and renewed on or before March 31, 2006, compliance with subparagraphs b and c will not be required.

F. - F.2.g. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 22:283 (April 1996), amended LR 27:723 (May 2001), LR 29:580 (April 2003), LR 32:

Barbara Morvant
Executive Director

0510#073

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Board of Physical Theraphy Examiners

Hurricanes Katrina and RitaCRequirement and Fee Waivers
(LAC 46:LIV.104)

Pursuant to the authority of Executive Order KBB 2005-33 and KBB 2005-47 and R.S. 49:953, the Louisiana State Board of Physical Therapy Examiners adopted the following Emergency Rule at the regular meeting of its board on September 22, 2005. As a result of the widespread damage caused by Hurricane Katrina (and subsequently by Hurricane Rita) more than a third of Louisiana's physical therapy licensees have been displaced. At the same time the extraordinary physical and emotional stress brought on by the Hurricane and by recovery efforts have created special needs for expediting the relocation of professional personnel and the facilitation of patient care. Education programs for licensees have been cancelled and otherwise disrupted not only in the storm affected areas, but throughout the state. Facilities for such programs have been preempted by hurricane evacuees and by response personnel. For these reasons it is imperative that the following rule be adopted on an emergency basis for the limited time set forth in the Rule. The effective date of this Emergency Rule is October 5, 2005.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LIV. Physical Therapy Examiners
Subpart 1. Licensing and Certification
Chapter 1. Physical Therapists and Physical Therapist Assistants
Subchapter A. General Provisions
§104. Emergency Rule Secondary to Hurricane Impact 2005

A. Continuing education requirements for licensure in 2005 are waived. Continuing education hours earned during 2005 or 2006 may be credited towards 2006 C.E. requirements.

B. Continuing education course providers who have cancelled or rescheduled board approved courses after August 25, 2005 need not seek new approvals or pay additional fees for the rescheduled courses. However, the board should be notified of the newly scheduled dates for web postings.

C. Continuing Education audits for 2005 will be waived.

D. Fees for licensure verification, re-instatement, or license duplication for displaced therapists are waived for the remainder of 2005.

F. All previously adopted rules in conflict with Subsections A-D above are suspended until January 1, 2006.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2.A.(3) and Act 731 of 1992.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 32:

Cheryl Gaudin
Executive Director

0510#079

DECLARATION OF EMERGENCY

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

Health Care Services Provider Fees
Hospital Services (LAC 48:I.4001)

The Department of Health and Hospitals, Office of the Secretary, Office of Management and Finance amends LAC 48.I.4001 as authorized by R.S. 36:254 and pursuant to R.S. 46:2601-2605. 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 Rule, whichever occurs first.

The Department of Health and Hospitals, Office of Management and Finance adopted a Rule to amend the March 20, 1993, January 20, 1994 and October 20, 1994 Rules governing health care services provider fees and repromulgated regulations pertaining to (1) the administration of fees; and (2) the rights and obligations of those on whom such fees are imposed *(Louisiana Register,* Volume 26, Number 7). The department also added a procedure to be used in estimating the amount of fees due in cases of failure to report, and revised the procedures for collecting delinquent fees to insure more prompt collection. The department also revised the nonsufficient fund check regulation in order to avail itself of the full benefits of R.S. 9:2782.

Act 182 of the 2005 Regular Session of the Louisiana Legislature, enacted as the Healthcare Affordability Act, establishes the Louisiana Healthcare Affordability Trust Fund as a special fund in the state treasury for the purposes of preserving and enhancing the availability of inpatient and outpatient hospital care for all patients, enhancing the stability of Medicaid funding by capturing a reliable source of funding for a portion of the state's obligation, and easing "cost-shifting" to employers and private insurers by providing reimbursement for a portion of hospitals' uncompensated care and Medicaid underpayment. The monies in the fund shall be generated by a provider fee levied on all hospitals licensed by the state under R.S. 40:2100 et seq., except for those hospitals specifically exempted by the provisions contained in the Act.

In compliance with Act 182, the department promulgated an Emergency Rule to establish the provisions governing a provider fee levied on all hospitals licensed by the state, except for those hospitals specifically exempted by the provisions contained in the legislation (*Louisiana Register*, Volume 31, Number 7). This Emergency Rule is being promulgated to continue the provisions contained in the July 1, 2005 Emergency Rule.

This action is being taken because the legislature specifically authorized the department to promulgate such regulations as necessary to comply with R.S. 47:8055(A) as emergency rules.

Effective October 30, 2005, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the following Rules governing health care services provider fees.

Title 48
PUBLIC HEALTHCGENERAL
Part I. General Administration
Subpart 1. General
Chapter 40. Provider Fees
§4001. Specific Fees

A. Definitions. As used in this Chapter 40, the following terms shall have the following meanings.

*Base Year Medicaid Hospital Funding*Cthe amount paid to all nonstate hospitals by the Medicaid program in state fiscal year 2004-2005, excluding Medicare upper payment limit payments.

*Base Year Medicaid Hospital Rates*Cthe rates, excluding upper payment limit payments, for inpatient and outpatient services paid to all nonstate hospitals by the Medicaid program in state fiscal year 2004-2005.

*Base Year Medicare Cost Report*Cthe hospital's Medicare cost report filed for the full cost report year beginning in the Federal fiscal year 2001 (October, 2000-September, 2001). In the event that the hospital did not file a full year Medicare cost report for this period, the base year Medicare cost report shall be the hospital's first full year Medicare cost report filed subsequent to this period.

*Calendar Quarter*Cas applicable to the hospital services provider fee, the term *calendar quarter* shall be constituted as follows.

First Quarter	July, August, September
Second Quarter	October, November, December
Third Quarter	January, February, March
Fourth Quarter	April, May, June

*CMS*Cthe Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services or its successor.

*Department*Cthe Department of Health and Hospitals.

*Fee Effective Date*Cthe date specified in R.S. 47:8056(E).

*Fund*Cthe Louisiana Healthcare Affordability Trust Fund.

*Hospital*Cany hospital licensed by the state under R.S. 40:2100 et seq., but does not include:

a. any hospital owned by the state;

b. any hospital owned by the United States or any agency or department thereof;

c. any hospital that generally seeks no reimbursement for its services;

d. rural hospitals as defined in R.S. 40:1300.143; and

e. hospitals certified by Medicare as separately licensed long term acute care, rehabilitation or psychiatric hospitals.

*Intentional Failure to Pay*Cfailure by a hospital to pay the fee imposed under this Chapter within 30 days of a notice of delinquency from the department.

*Medicaid Program*Cthe medical assistance program as established in Title XIX of the Social Security Act and as administered in the state of Louisiana by the Department of Health and Hospitals.

*Net Patient Revenue*Cthe amount reported as net patient revenue in the hospital's Medicare cost report.

*Net Uncompensated Cost*Cwith respect to hospitals subject to this Chapter, the cost of furnishing uncompensated care to uninsured patients less any payments received for such care.

*Nonstate Hospitals*Call hospitals licensed by the state or participating in the Medicaid program, excluding only those that are owned by the state.

*Quarter*Cas applicable to provider fees for nursing facility services, intermediate care facility for the mentally retarded services, pharmacy services and transportation services, the term *quarter* shall be constituted as follows.

First Quarter	December, January, February
Second Quarter	March, April, May
Third Quarter	June, July, August
Fourth Quarter	September, October, November

Note: This definition of *quarter* is not applicable to the hospital services provider fee.

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

*State*Cthe state of Louisiana.

*Uncompensated Care*Cwith respect to hospitals subject to this Chapter, furnishing inpatient and outpatient hospital services to uninsured persons as defined by the Louisiana Department of Health and Hospitals.

B. - E. …

F. Hospital Services

1. Effective July 1, 2005, a fee shall be paid by each hospital as defined in this Chapter 40 and the amount of the fee will be calculated as follows.

a. For each hospital having a base year Medicare cost report, the fee shall be 1 1/2 percent of its total net patient revenue.

b. For each hospital without a base year Medicare cost report, an interim fee of $50,000 per calendar quarter shall be due until a base year Medicare cost report is filed. After the filing of a base year Medicare cost report, the hospital shall, within 90 days of such filing amend its prior fee filing to reflect the actual net patient revenue. If additional monies are due for the period covered by the amendment, the balance shall be paid at the time the amendment is filed. If the amendment reflects that the fee was overpaid, the balance shall be refunded to the hospital within the same period.

c. In the event that the net patient revenue stated in the base year Medicare cost report is amended or adjusted at any time after fee payments under this Chapter have been made, the hospital shall, within 90 days of such amendment or adjustment, pay any difference between previous fee payments and the amount that would have been due in light of the cost report amendment or adjustment. If the amendment to the cost report reflects that the fee was overpaid, the balance shall be refunded to the hospital within the same period.

2. It is the intention of the legislature that the total amount collected as a fee under '4001.F of this Chapter in any year shall be no more than $90,000,000. If at any time the department determines that total collections of this fee in any state fiscal year will exceed that amount, it shall immediately reduce the percentage amount of the fee due in the next calendar quarter to the extent necessary to limit total collections in that year to $90,000,000 and shall publish notice in the *Louisiana Register*.

3. Except in the implementation period, the fee shall be paid in equal quarterly installments due on the twentieth day of the third month of each calendar quarter.

4. Any fee not timely paid by a hospital shall bear interest at the rate provided by law for failure to pay other fees due to the state, provided that the department may, in individual cases, waive the interest based on the financial condition of the hospital involved. The department shall cause a notice of delinquency to be sent to any hospital which has not paid in full any amount within 30 days of the date due.

5. When a hospital disputes that the fee is payable, or disputes the amount that is payable, it shall give the department written notice thereof at any time before the fee becomes delinquent. Under no circumstances shall the department offset any amounts due to a hospital to collect the fee to the extent that the fee has been properly disputed as provided herein.

6. Any fee collected pursuant to §4001.F of this Chapter shall be considered an allowable cost for purposes Medicare and Medicaid cost reporting and reimbursement. However, no hospital shall include the fee as an itemized and separately listed amount on any statement sent to any patient, responsibility party, insurer or self-insured employer programs.

7. Act 182 of the 2005 Regular Session of the Louisiana Legislature established a special fund in the state treasury to be known as the Louisiana Healthcare Affordability Trust Fund, which shall consist of monies generated by the fees on hospitals as set forth in the Act. The proceeds of the fund may be disbursed only to the department for use in the Medicaid Program consistent with the stated purposes of the Act, and only when the following conditions have been met.

a. Total Medicaid funding and reimbursement rates paid in the current fiscal year for payments to all nonstate hospitals is not less than the base year Medicaid hospital funding.

b. The payments required to be made to hospitals under the Rural Hospital Preservation Act is not less than the base year Medicaid funding

c. An approved and final system is in place and fully funded to compensate hospitals as defined in §4001 for at least 75 percent of their uncompensated care as reported on the latest uncompensated care filing prior to May 31 of the previous fiscal year. Any hospital which has not filed previously or is not required by regulation to make an uncompensated care filing, or which is without a full year cost report, may file an estimate of its uncompensated costs within 45 days of the end of the quarter in which such care provided. Any such hospital otherwise eligible for uncompensated care cost compensation shall be included in the payment to be made in the quarter in which the estimate

is filed, subject to final adjustment as otherwise provided. Except as hereinafter provided, the uncompensated care payment shall be paid in equal quarterly installments due on the fifteenth day of the third month in each calendar quarter.

d. The Medicaid psychiatric care per diem rates for care rendered by all hospitals as defined in §4001 in the current fiscal year are at least $60 greater than the base Medicaid hospital rate for inpatient psychiatric care services, and the Medicaid hospital rate for care rendered by all hospitals as defined in §4001, other than psychiatric care, in the current fiscal year are at least $160 greater than the base year Medicaid rate for such services.

e. For hospitals, as defined in §4001, Medicaid hospital outpatient rates in the current fiscal year are at least 13 percent greater than the base year Medicaid hospital rate. If the hospital outpatient payment is based on costs reported on the Medicaid cost report, the cost settlement in the current fiscal year is at least 13 percent greater than the base year Medicaid hospital cost settlement rate.

f. It is the intention of the legislature that the total additional amount cost to the state, including federal financial participation, of implementing the provisions of §4001.F.7.c.-e. will be $170 million. To that end, the amount of the fourth quarter payments in any fiscal year shall be reduced or increased proportionately as necessary to achieve the total annual cost. The amounts due to individual hospitals shall be adjusted as necessary to reflect any differences between payments during the preceding 12 months to hospitals for estimates of uncompensated care and the amount actually due during that period based on uncompensated care filings by those hospitals.

g. During the implementation period, the rate increase required by §4001.F.7.c.-e. may be contingent on the final implementation of the fee imposed by this Chapter, as long as the rate increase applies, whether prospectively or retrospectively, to all services rendered and payments due in the implementation period.

h. If the criteria in §4001.F.7.c.-e. have not been met, no fees or other assets of the fund shall be disbursed to the department. Any amount not disbursed within 120 days of the end of the quarter in which it was received shall be refunded to the hospital paid it. Thereafter, no fee may be imposed and no fee shall be due until the criteria §4001.F.7.c.-e. has been met.

AUTHORITY NOTE: Promulgated in accordance with Chapter 45 of Title 46 as enacted in 1992, 46:2601-2605, redesignated as Chapter 47 of Title 46, containing R.S. 46:2621 to 46:2625 and PL 102-234.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Management and Finance, LR 19:347 (March 1993), amended LR 20:51 (January 1994), amended LR 26:1478 (July 2000), LR 32:

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 Ben A. Bearden, 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.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0510#088

DECLARATION OF EMERGENCY

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

Home and Community Based Services Waivers
New Opportunities WaiverCEmergency Opportunities
(LAC 50:XXI.13707 and 13709)

The Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities proposes to adopt LAC 50.XXI.13707-13709 as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is being 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 on June 20, 1997 to establish the provisions governing the programmatic allocation of waiver slots for the Mental Retardation/Developmental Disabilities (MR/DD) Waiver (*Louisiana Register*, Volume 23, Number 6*)*. The June 20, 1997 Rule was subsequently amended on May 20, 2002 to update the methodology for slot allocation in order to better meet the needs of citizens with disabilities in the state of Louisiana *(Louisiana Register*, Volume 28, Number *5*). The Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services promulgated a Rule implementing a new home and community based services waiver designed to enhance the support services available to individuals with developmental disabilities titled the New Opportunities Waiver (NOW) (*Louisiana Register*, Volume 30, Number 6). The New Opportunities Waiver replaced the MR/DD Waiver upon completion of the transition of all MR/DD participants to NOW.

The Appropriations Bill of the 2004 Regular Session of the Legislature allocated funds for the establishment of 66 emergency slots for NOW and mandated the development and enforcement of Rules established under the Administrative Procedure Act to create an equitable and precise methodology for defining an emergency and the issuance of such slots. The bureau promulgated an Emergency Rule April 19, 2005 that established the provisions governing emergency waiver opportunities. In addition, the bureau repealed the Rules governing programmatic allocation of MR/DD Waiver slots and adopted provisions to govern the programmatic allocation of waiver opportunities for NOW *(Louisiana Register*, Volume 31, Number 4). The bureau amended by Emergency Rule the April 19, 2005 Rule to clarify the provisions governing

allocation of waiver opportunities for persons transitioning from publicly operated to private ICF-MR facilities (*Louisiana Register*, Number 31, Volume *7*). This Emergency Rule is being promulgated to continue provisions contained in the July 20, 2005 Emergency Rule. This action is being taken to promote the health and welfare of those individuals with developmental disabilities by facilitating access to waiver services.

Effective November 17, 2005, the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities amends the April 2005 Emergency Rule and adopts the following provisions governing the programmatic allocation of waiver opportunities in the New Opportunities Waiver.

Title 50

PUBLIC HEALTHCMEDICAL ASSISTANCE

Part XXI. Home and Community Based Services Waivers

Subpart 11. New Opportunities Waiver

Chapter 137. General Provisions

§13707. Programmatic Allocation of Waiver Opportunities

A. The Request for Services Registry, hereafter referred to as "the registry", shall be used to evaluate individuals for waiver eligibility and to fill all waiver opportunities for persons with mental retardation or developmental disabilities. The next individual on the registry shall be notified in writing that a waiver opportunity is available and that he is next in line to be evaluated for a possible waiver assignment. The individual shall then choose a case management agency that will assist in the gathering of the documents needed for both the financial eligibility and medical certification process for level of care determination. If the individual is determined to be ineligible, either financially or medically, that individual shall be notified in writing. The next person on the registry shall be notified as stated above and the process continues until an eligible person is assigned the waiver opportunity. A waiver opportunity shall be assigned to an individual when eligibility is established and the individual is certified. By accepting a waiver opportunity, the person's name shall be removed from the registry.

B. Right of Refusal. A person may be designated inactive on the registry upon written request to OCDD. When the individual determines that he is ready to begin the waiver evaluation process, he shall request, in writing, that his name be removed from inactive status. His original protected request date will be reinstated. In addition, persons who left a publicly operated facility after July 1, 1996 and who would have received a waiver opportunity, but chose another option at the time of discharge, may request access to a waiver opportunity through OCDD regional administrative units. OCDD will verify that the individual meets the criteria for this option and provide access to the next available waiver opportunity based on his/her date of discharge from the publicly operated facility. That will become his/her protected date.

C. Utilizing these procedures, waiver opportunities shall be allocated to the targeted groups cited as follows.

1. A minimum of 90 waiver opportunities shall be available for allocation to foster children in the custody of the Office of Community Services (OCS), who successfully complete the financial and medical certification eligibility processes and are certified for the waiver. OCS is the guardian for children who have been placed in their custody by court order. OCS shall be responsible for assisting the individual in gathering the documents needed in the eligibility determination process, preparing the comprehensive plan of care, and submitting the plan of care document to OCDD.

2. A minimum of 160 waiver opportunities shall be available for people living at Pinecrest and Hammond Developmental Centers, or their alternates at private ICFs-MR, who have chosen to receive community-based waiver services, have successfully completed the financial eligibility and medical certification processes, and are certified for the waiver. For the purposes of assigning these waiver opportunities, an alternate is defined as a person who lives in a private ICF-MR, chooses to apply for waiver participation, is eligible for the waiver, and vacates a bed in the private ICF-MR for an individual being discharged from a publicly operated facility. A person living at either Pinecrest or Hammond Developmental Center shall have the option to select a private ICF-MR placement in the area of his choice in order to designate the individual being discharged from the private ICF-MR as his alternate. The bed being vacated in the private ICF-MR must be reserved for 14 days for the placement of a person being discharged from a publicly operated facility. The person's discharge from a publicly operated facility and his subsequent placement in a private ICF-MR is to occur as close as possible to the actual discharge of the alternate from the private ICF-MR and is not to exceed 14 days from the date of the alternate's discharge and certification for the waiver. The bed may be held vacant beyond the 14 days with the concurrence of the private ICF-MR provider.

3. Except for those waiver opportunities addressed in Paragraphs C.1, 2, 6 and 7, waiver opportunities vacated during the waiver year shall be made available to persons leaving any publicly operated ICF-MR or their alternates.

4. A waiver opportunity will be reserved for persons who choose to transition from a publicly operated facility to community-based waiver services. The reservation of a waiver opportunity shall not exceed 120 days. However, justification to exceed this 120-day reservation period may be granted as needed.

5. Waiver opportunities not utilized by persons living in public ICFs-MR or their alternates shall be divided between:

a. the next individual on the registry who is living in either a nursing facility or private ICF-MR; and

b. the next individual on the registry who is residing in the community.

6. Ten waiver opportunities shall be used for qualifying persons with developmental disabilities who receive services from the Developmental Neuropsychiatric Program (DNP) administered by Southeast Louisiana State Hospital. This is a pilot project between OCDD and the Office of Mental Health in the development of coordinated wrap-around services for individuals who choose to participate in the waiver and meet the financial and medical eligibility requirements for the waiver.

7. Sixty-six waiver opportunities shall be used for qualifying individuals with developmental disabilities who

require emergency waiver services. In the event that a waiver opportunity is vacated, the opportunity will be returned to the emergency pool for support planning based on the process for prioritization. Once the 66 waiver opportunities are filled, then supports and services based on the priority determination system will be identified and addressed through other resources currently available for individuals with developmental disabilities.

8. Funded waiver opportunities not addressed above shall be available for allocation to the next individual on the registry who successfully completes the financial eligibility and medical certification process and is certified for the waiver.

D. The Office for Citizens with Developmental Disabilities has the responsibility to monitor the utilization of NOW waiver opportunities. At the discretion of the OCDD, specifically allocated waiver opportunities may be reallocated to better meet the needs of citizens with developmental disabilities in the state of Louisiana.

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:

§13709. Emergency Opportunities

A. Requests for emergency waiver services shall be made through the regional administrative units (RAU), which are local and regional governmental entities responsible for coordination of services for persons with developmental disabilities. When a request for emergency services is received, the RAU (which may be OCDD regional offices, human services districts, or human services authorities) shall complete a priority assessment that incorporates standardized operational procedures with standardized assessment tools to determine the priority of the individual's need in a fair and consistent manner.

B. To be considered for emergency waiver supports, the individual must need long term supports, not temporary or short term supports. All of the following criteria shall be used in the determination of priority for an emergency waiver opportunity.

1. Urgency of Need. The individual will require further assessment for emergency services if one of the following situations exists:

a. the caregiver is unable or unwilling to continue providing care;

b. death of the caregiver and there are no other available supports;

c. the caregiver is incapacitated and there are no other available supports due to physical or psychological reasons;

d. intolerable temporary placement, immediate need for new placement; or

e. other family crisis exists with no caregiver support available.

2. Level of Risk. The individual will be assessed to determine the risk to his/her health and safety in areas of daily living, health care and behavioral supports if an emergency waiver opportunity is not made available. Level of risk will be categorized as follows.

a. High Risk. The person's health or safety is at imminent risk without the requested developmental disability supports.

b. Moderate Risk. The person has a potential risk of losing his/her current level of health or safety without the requested developmental disability supports.

c. Low Risk. The person is at little or no risk of losing his/her current level of health or safety without the requested developmental disability supports.

3. Level of Unmet Needs. The person's needs shall be identified and assessed to determine the level to which the needs are being met.

4. Adaptive Service Level Determination. The person's service needs will be determined utilizing a standardized rating based on adaptive behavior levels.

5. Financial Resources Determination. Individual or family income shall be considered to determine whether it is adequate to meet unmet needs.

C. For individuals who appear to meet the criteria for an emergency waiver opportunity, the RAU will forward the Priority Ranked Score and all supporting documentation to the DHH emergency review team coordinator at OCDD in Baton Rouge to complete the programmatic determination process.

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:

Implementation of this Emergency Rule is subject to approval by the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Kathy Kliebert, Office for Citizens with Developmental Disabilities, P. O. Box 3117, Baton Rouge, LA 70821-3117. She 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.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0510#083

DECLARATION OF EMERGENCY

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

Hospital ServicesCInpatient Hospitals
Disproportionate Share Hospital Payment Methodologies
(LAC 50:V.Chapter 3)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Emergency Rule 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 promulgated a Rule to adopt the provisions governing the

disproportionate share payment methodologies for hospitals in May of 1999 (*Louisiana Register*, Volume 25, Number 5). The May 20, 1999 Rule was later amended to change the criteria used to define rural hospitals and to clarify the policy governing final payments and adjustments (*Louisiana Register*, Volume 29, Number 1).

The Benefits Improvement and Protection Act of 2000 made provisions for public hospitals to receive disproportionate share hospital adjustment payments up to 175 percent of their allowable uncompensated care cost. Act 1024 of the 2001 Regular Session directed the Department of Health and Hospitals, as the federally designated Medicaid state agency, to specify in the Medicaid State Plan how uncompensated care is defined and calculated and to determine what facilities qualify for uncompensated care payments and the amount of the payments. In determining payments, the department shall prioritize local access to primary health care for the medically indigent and uninsured, and shall not include unreimbursed costs resulting from excess inpatient hospital capacity. For the period July 1, 2003 through June 30, 2005, the state's Medicaid uncompensated care payments shall be distributed in proportion to the amount and type of uncompensated care reported by all qualified facilities as required by Act 491 of the 2001 Regular Session. Nothing shall be construed to impede or preclude the Department of Health and Hospitals from implementing the provisions in the Rural Hospital Preservation Act. Further, Senate Concurrent Resolution 94 of the 2001 Regular Session and Senate Concurrent Resolution 27 of the 2002 Regular Session of the Louisiana Legislature requested the Department of Health and Hospitals, the Louisiana State University Health Sciences Center-Health Services Division, and the Louisiana State University Health Sciences Center–Shreveport to study and recommend common acute hospital payment methodologies for state and non-state hospitals participating in the Medicaid Program and the Medicaid Disproportionate Share Program. In accordance with the Benefits Improvement and Protection Act of 2000 and the findings and recommendations contained in the final reports of the study committees, the department repealed and replaced all provisions governing disproportionate share hospital payments (*Louisiana Register*, Volume 29, Number 6). Acts 14, 526 and 1148 of the 2003 Regular Session of the Louisiana Legislature directed the department to amend the qualifying criteria and the payment methodology for disproportionate share payments to small rural hospitals. In compliance with Acts 14, 526 and 1148, the bureau amended the June 20, 2003 Emergency Rule (*Louisiana Register*, Volume 29, Number 9). The department subsequently promulgated an Emergency Rule to repeal and replace all rules governing disproportionate share hospital payment methodologies (*Louisiana Register*, Volume 31, Number 6).

Act 182 of the 2005 Regular Session of the Louisiana Legislature, enacted as the Healthcare Affordability Act, established the Louisiana Healthcare Affordability Trust Fund as a special fund in the state treasury for the purposes of preserving and enhancing the availability of inpatient and outpatient hospital care for all patients, enhancing the stability of Medicaid funding by capturing a reliable source of funding for a portion of the state's obligation, and easing "cost-shifting" to employers and private insurers by providing reimbursement for a portion of hospitals' uncompensated care and Medicaid underpayment. The monies in the fund shall be generated by a provider fee levied on all hospitals licensed by the state under R.S. 40:2100 et seq., except for those hospitals specifically exempted by the provisions contained in Act 182. In compliance with Act 182, the department amended the June 26, 2005 Emergency Rule governing the disproportionate share payment methodologies for hospitals (*Louisiana Register*, Volume 31, Number 7).

Act 323 of the 2005 Regular Session of the Louisiana Legislature amended R.S. 40:1300.143(3)(a)(xii), relative to the Rural Hospital Preservation Act, to provide an additional definition of a rural hospital. An Emergency Rule was promulgated to amend the definition of a small rural hospital as contained in the June 26, 2005 Emergency Rule, in compliance with Act 323 (*Louisiana Register*, Volume 31, Number 9). The bureau now proposes to amend the June 26, 2005 Emergency Rule. This action is being taken to enhance federal revenue.

Effective October 25, 2005, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the June 26, 2005 Emergency Rule to incorporate the provisions of the July 1, 2005 and September 1, 2005 Emergency Rules governing disproportionate share hospital payment methodologies.

Title 50

PUBLIC HEALTHCMEDICAL ASSISTANCE

Part V. Medical Assistance Program–Hospital Services

Subpart 1. Inpatient Hospitals

Chapter 3. Disproportionate Share Hospital Payment Methodologies

§301. 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 Chapter 3 shall not exceed the hospital's net uncompensated cost as defined in §§305-313 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.

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 32:

§303. 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 §303.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 §311.A.1.a-h; and

6. any hospital licensed by the state under R.S. 40:2100 et seq., but does not include:

a. any hospital owned by the state;

b. any hospital owned by the United States or any agency or department thereof;

c. any hospital that generally seeks no reimbursement for its services;

d. rural hospitals as defined in R.S. 40:1300.143; and

e. hospitals certified by Medicare as separately licensed long term acute care, rehabilitation or psychiatric hospitals; 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 32:

§305. High Uninsured Hospitals

A. Definitions

*High Uninsured Utilization Rate Hospital*Ca hospital that has an uninsured utilization rate in excess of the mean,

plus one standard deviation of the uninsured utilization rates for all hospitals.

*Net Uncompensated Cost*Cthe cost of furnishing inpatient and outpatient hospital services to uninsured persons, supported by patient-specific data, net of any payments received from such patients.

B. DSH payments to individual high uninsured hospitals shall be calculated as follows.

1. Inpatient High Uninsured. Payments shall be equal to 100 percent of the hospital's cost of furnishing inpatient hospital services to uninsured persons, supported by patient-specific data, net of any payments received from such patients. DSH payments calculated under this payment methodology shall be subject to the adjustment provision below in Subsection E; and/or

2. Outpatient High Uninsured. Payments shall be equal to 100 percent of the hospital's cost of furnishing outpatient hospital services to uninsured persons, supported by patient-specific data, net of any payments received from such patients. DSH payments calculated under this payment methodology shall be subject to the adjustment provision in Subsection E below.

C. It is mandatory that hospitals seek all third party payments including Medicare, Medicaid, 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. 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 annual 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.

D. DSH payments to individual high uninsured hospitals shall be equal to 100 percent of the hospital's net uncompensated costs and subject to the adjustment provision in §301.B.1-6.

E. In the event that it is necessary to reduce the amount of disproportionate share payments to remain within the federal disproportionate share allotment or the state DSH-appropriated amount, the department shall calculate a pro rata decrease for each high uninsured hospital based on the ratio determined by:

1. dividing that hospital's uncompensated cost by the total uncompensated cost for all qualifying high uninsured hospitals during the state fiscal year; then

2. multiplying by the amount of disproportionate share payments calculated in excess of the federal disproportionate allotment or state DSH-appropriated amount.

F. A hospital receiving DSH payments shall furnish emergency and nonemergency 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 32:

§307. Other Uninsured Hospitals

A. Definitions

*Net Uncompensated Cost*Cthe cost of furnishing inpatient and outpatient hospital services to uninsured persons, supported by patient-specific data, net of any payments received from such patients.

*Other Uninsured Utilization Rate Hospital*Ca qualifying hospital that is not included in §§305, 311, 313 or 315.

B. DSH payments to an individual other uninsured hospital shall be calculated as follows:

1. Private Other Uninsured. Hospitals shall be compensated for at least 75 percent of their uncompensated care as reported on the latest uncompensated care filing prior to May 31 of the previous fiscal year. Any hospital which has not filed previously or is not yet required by regulation to make an uncompensated care filing, or which is without a full year cost report, may file an estimate of its uncompensated costs within 45 days of the end of the quarter in which such care was provided. Any such hospital otherwise eligible for uncompensated care cost compensation shall be included in the payment to be made in the quarter in which the estimate is filed, subject to final adjustment as otherwise provided. Except as hereinafter provided, the uncompensated care payment shall be paid in equal quarterly installments due on the fifteenth day of the third month in each calendar quarter. The amount of the fourth quarter payments in any fiscal year for inpatient services, outpatient services, inpatient psychiatric services and disproportionate share hospital payments shall be reduced or increased proportionately as necessary to achieve the total annual cost to the state, including federal financial participation, of implementing this amended reimbursement methodology. Amounts due to individual hospitals shall be adjusted as necessary to reflect any differences between payments during the preceding 12 months to hospitals for estimates of uncompensated care and the amount actually due during the period based on uncompensated care filings by those hospitals.

2. Public Other Uninsured. Non-state public hospitals, except small rural hospitals, shall certify to the department of Health and Hospitals the state nonfederal share of expenditures for all of their Medicaid claims and shall provide a certification of incurred uncompensated care costs that constitute public expenditures that are eligible for financial participation under Title XIX of the Social Security Act. Both certifications shall be submitted in a form satisfactory to the department at the earliest possible date after July 1, but no later than October 1 of each fiscal year beginning July 1, 2005. The reimbursement methodology for the hospitals participating in the certification, except small rural hospitals, shall be 100 percent of their allowable costs.

C. 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. 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.

D. In the event it is necessary to reduce the amount of disproportionate share payments to remain within the federal disproportionate share allotment or the state DSH-appropriated amount, the department shall calculate a pro rata decrease for each other uninsured hospital based on the ratio determined by:

1. dividing that hospital's uncompensated cost by the total uncompensated cost for all qualifying other uninsured hospitals during the state fiscal year; then

2. multiplying by the amount of disproportionate share payments calculated in excess of the federal disproportionate allotment or state DSH-appropriated amount.

E. A hospital receiving DSH payments shall furnish emergency and nonemergency 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 32:

§309. All Other Qualifying Hospitals Not Included In Any Other Group

A. Definition

*All Other Qualifying Hospitals Not Included In Any Other Group*Ca hospital that meets the federal DSH statutory utilization requirements in §303.A.4.a-b.ii. and is not included in any other qualifying group.

B. DSH payments to individual other qualifying 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 $248,267 which is the state appropriation for disproportionate share payments allocated for this pool of hospitals for SFY 2005–2006.

D. A pro rata decrease necessitated by conditions specified in §301.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 32:

§311. Small Rural Hospitals

A. Definitions

*Net Uncompensated Cost*Cthe 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*Ca 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

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 four pools.

1. *Public (Nonstate) Small Rural Hospitals*Csmall rural hospitals as defined in §311.A.2 which are owned by a local government.

2. *Private Small Rural Hospitals*Csmall rural hospitals as defined in §311.A.2 that are privately owned.

3. *Small Rural Hospitals*Csmall rural hospitals as defined in §311.A.2.i-k.

4. *Small Rural Hospitals*Csmall rural hospitals as defined in §311.A.2.l.

C. Payment to hospitals included in §311.B.1-3 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. Payments to hospitals included in §311.B.4 shall be the lesser of the hospital's actual uncompensated care cost or $250,000. 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 §301.B.1-6 for rural hospitals described in this §311 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 §311; 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 §311.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 32:

§313. Public State-Operated Hospitals

A. Definitions

*Net Uncompensated Cost*Cthe 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*Ca 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 patientCspecific 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 32:

§315. Repealed

A. 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.

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 32:

Interested persons may submit written comments to Ben A. Bearden at the following address: 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.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0510#087

DECLARATION OF EMERGENCY

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

Inpatient Hospital Services
Private Acute Care Hospitals
Psychiatric Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and Act 182 of the 2005 Regular Session of the Louisiana Legislature. 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 which established the prospective reimbursement methodology for inpatient psychiatric hospital services provided in either a free-standing psychiatric hospital or distinct part psychiatric unit of an acute care general hospital (*Louisiana Register*, Volume 19, Number 6). The June 20, 1993 Rule was later amended to discontinue the practice of automatically applying an inflation adjustment to the reimbursement rates for inpatient psychiatric services in those years when the rates are not rebased (*Louisiana Register*, Volume 25, Number 5). The May 1999 Rule was subsequently amended to increase the reimbursement rates for inpatient psychiatric hospital services provided in private and public non-state owned and operated free-standing psychiatric hospitals and distinct part psychiatric units based on the weighted average costs reported on the cost report ending in SFY 2002 (*Louisiana Register*, Volume 30, Number 11).

Act 182 of the 2005 Regular Session of the Louisiana Legislature, enacted as the Healthcare Affordability Act, established the Louisiana Healthcare Affordability Trust Fund as a special fund in the state treasury for the purposes of preserving and enhancing the availability of inpatient and outpatient hospital care for all patients, enhancing the stability of Medicaid funding by capturing a reliable source of funding for a portion of the state's obligation, and easing "cost-shifting" to employers and private insurers by providing reimbursement for a portion of hospitals' uncompensated care and Medicaid underpayment. The monies in the fund shall be generated by a provider fee levied on all hospitals licensed by the state under R.S. 40:2100 et seq., except for those hospitals specifically exempted by the provisions contained in Act 182. In order to comply with the directives of the Act, the bureau amended by emergency rule the methodology for reimbursements paid for inpatient psychiatric services provided in distinct part psychiatric units (*Louisiana Register*, Volume 31, Number 7). This Emergency Rule is being promulgated to continue provisions contained in the July 1, 2005 Emergency Rule. This action is being taken to enhance federal revenues.

Emergency Rule

Effective for dates of service on or after October 30, 2005, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the reimbursement methodology to increase the per diem rate paid to distinct part psychiatric units in the current fiscal year to at least $60 greater than the base year Medicaid hospital rate for inpatient psychiatric services provided in private acute care hospitals. The amount of the increase to the per diem rate will be adjusted if the total reimbursement rate increases exceed the $170,000,000 total additional annual costs to the state set forth in Act 182 of the 2005 Regular Session of the Louisiana Legislature.

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 Ben A. Bearden at the 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.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0510#080

DECLARATION OF EMERGENCY

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

Inpatient Hospital Services
Private Hospitals Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and Act 182 of the 2005 Regular Session of the Louisiana Legislature. 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). The reimbursement methodology was subsequently amended to establish a weighted average per diem for each hospital peer group and discontinue the practice of automatically applying an inflation adjustment to the reimbursement rates in those years when the rates are not rebased (*Louisiana Register*, Volumes 22 and 25, Numbers 1 and 5). The May 20, 1999 Rule was later amended to reduce the reimbursement paid to private (non-state) acute hospitals for inpatient services (*Louisiana Register*, Volume 30, Number 6).

Act 182 of the 2005 Regular Session of the Louisiana Legislature, enacted as the Healthcare Affordability Act, established the Louisiana Healthcare Affordability Trust Fund as a special fund in the state treasury for the purposes of preserving and enhancing the availability of inpatient and outpatient hospital care for all patients, enhancing the stability of Medicaid funding by capturing a reliable source of funding for a portion of the state's obligation, and easing "cost-shifting" to employers and private insurers by providing reimbursement for a portion of hospitals' uncompensated care and Medicaid underpayment. The monies in the fund shall be generated by a provider fee levied on all hospitals licensed by the state under R.S. 40:2100 et seq., except for those hospitals specifically exempted by the provisions contained in Act 182. In order to comply with the directives of the Act, the bureau amended by Emergency Rule the methodology for reimbursements paid for inpatient services rendered in private (nonstate) acute hospitals (*Louisiana Register*, Volume 31, Number 7). This Emergency Rule is being promulgated to continue provisions contained in the July 1, 2005 Emergency Rule. This action is being taken to enhance federal revenues.

Emergency Rule

Effective for dates of service on or after October 30, 2005, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the reimbursement methodology for inpatient hospital services rendered in private (nonstate) acute hospitals to increase the per diem rate paid in the current fiscal year to at least $160 greater than the base year Medicaid hospital rate for inpatient services. The amount of the increase to the per diem rate will be adjusted if the total reimbursement rate increases exceed the $170,000,000 total additional annual costs to the state set forth in Act 182 of the 2005 Regular Session of the Louisiana Legislature.

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 Ben A. Bearden at the 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.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0510#081

DECLARATION OF EMERGENCY

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

Inpatient Hospital ServicesCState
Hospitals Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Emergency Rule 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 1983 which established a reimbursement methodology for inpatient services provided in acute care hospitals (*Louisiana Register*, Volume 9, Number 6). Inpatient hospital services were reimbursed in accordance with the Medicare reimbursement principles with a target rate set based on the cost per discharge for each hospital, except that the base year to be used in determining the target rate was the fiscal year ending on September 30, 1981 through September 29, 1982. In a Rule promulgated in October of 1984, separate per diem limitations were established for neonatal and pediatric intensive care and burn units using the same base period as the target rate per

discharge calculation (*Louisiana Register*, Volume 10, Number 10). A Rule was later promulgated in October 1992, which provided that inpatient hospital services to children under one year of age shall be reimbursed as pass-through costs and shall not be subject to per discharge or per diem limits applied to other inpatient hospital services. The reimbursement methodology was subsequently amended in a Rule promulgated in June of 1994 which established a prospective payment methodology for nonstate hospitals (*Louisiana Register*, Volume 20, Number 6). These per discharge and per diem limitations in state acute hospitals were rebased by a Rule promulgated in December of 2003 (*Louisiana Register*, Volume 29, Number 12). The bureau amended by Emergency Rule the reimbursement methodology for inpatient services provided in state acute hospitals (*Louisiana Register*, Volume 31, Number 7). This Emergency Rule is being promulgated to continue the provisions contained in the July 1, 2005 Emergency Rule.

This action is being taken to enhance federal revenues in the Medicaid Program.

Emergency Rule

Effective October 30, 2005, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the reimbursement methodology for inpatient hospital services rendered in state acute hospitals to discontinue the requirement that state hospitals utilize target rate per discharge amounts and per diem limitations to determine the reimbursable Medicaid inpatient costs on the cost report. Inpatient hospital services provided by state acute hospitals shall be reimbursed at allowable costs and shall not be subject to per discharge or per diem limits.

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 Ben A. Bearden, 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.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0510#082

DECLARATION OF EMERGENCY

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

Minimum Standards for Home Health Agencies
Emergency Preparedness (LAC 48:I.9121)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing hereby amends LAC 48:I.9121 as authorized by R.S. 36:254 and R.S. 40:2116.31-40. 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 revising the regulations governing the licensure of home health agencies in February of 1995 (*Louisiana Register*, Volume 21, Number 2). This Rule was subsequently amended in November of 1996 to revise the provisions contained in §§9165-9169, 9173, 9177 and 9193 (*Louisiana Register*, Volume 22, Number 11) and in December 2001 to amend provisions of the February 1995 and November 20, 1996 Rules (*Louisiana Register*, Volume 27, Number 12). The department now proposes to amend the December 20, 2001 Rule to revise the provisions governing emergency preparedness requirements for home health agencies. This action is being taken to prevent imminent peril to the health and well-being of Louisiana citizens that have been evacuated as a result of natural disasters or other emergencies. It is anticipated that the implementation of this Emergency Rule will be cost neutral for state fiscal year 2005-06.

Effective October 15, 2005, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions contained in the December 20, 2001 Rule governing emergency preparedness requirements for home health agencies.

Title 48
PUBLIC HEALTHCGENERAL
Part I. General Administration
Subpart 3. Licensing and Certification
Chapter 91. Minimum Standards for Home Health Agencies

§9121. Emergency Preparedness

A. The home health agency shall have an emergency preparedness plan which conforms to the current Office of Emergency Preparedness (OEP) model plan and is designed to manage the consequences of natural disasters or other emergencies that disrupt the home health agency's ability to provide care and treatment or threaten the lives or safety of its clients. The home health agency is responsible for obtaining a copy of the current Home Health Emergency Preparedness Model Plan from the Louisiana Office of Emergency Preparedness.

B. At a minimum, the agency shall have a written plan that describes:

1. the evacuation procedures for agency clients who require community assistance as well as for those with available caregivers to another location;

2. the delivery of essential care and services to agency clients whether they are in a shelter or other locations;

3. the provisions for the management of staff, including distribution and assignment of responsibilities and functions;

4. a plan for coordinating transportation services required for evacuating agency clients to another location; and

5. assurance that the agency will notify the client's family or caregiver if the client is evacuated to another location.

C. The home health agency's plan shall be activated at least annually, either in response to an emergency or in a planned drill. The home health agency's performance during the activation of the plan shall be evaluated and documented. The plan shall be revised if the agency's performance during

an actual emergency or a planned drill indicates that it is necessary.

D. Any updates or revisions to the plan shall be submitted to the parish Office of Emergency Preparedness for review. The parish Office of Emergency Preparedness shall review the home health agency's plan by utilizing community wide resources.

E. As a result of an evacuation order issued by the parish Office of Emergency Preparedness (OEP), it may be necessary for a home health agency to temporarily relocate outside of its licensed geographic service area. In such a case, the agency may request a waiver to operate outside of its licensed location for a time period not to exceed six months in order to provide needed services to its clients and/or other evacuees of the affected areas. The agency must provide documentation as required by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 18:57 (January 1992), amended LR 21:177 (February 1995), LR 27:2249 (December 2001), LR 32:

Interested persons may submit written comments to Ben A. Bearden at the 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.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0510#089

DECLARATION OF EMERGENCY

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

Outpatient ServicesCPrivate Hospitals
Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and Act 182 of the 2005 Regular Session of the Louisiana Legislature. 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 January of 1996 which established the reimbursement methodology for outpatient hospital services at an interim rate of 60 percent of billed charges and cost settlement adjusted to 83 percent of allowable costs documented in the cost report, except for laboratory services subject to the Medicare fee schedule, outpatient rehabilitation and outpatient surgeries (*Louisiana Register,* Volume 22, Number 1). The January 20, 1996 Rule was subsequently amended to reduce the reimbursement paid for outpatient services *(Louisiana Register*, Volume 26, Number 12). Rules were later promulgated to increase the reimbursement paid for outpatient hospital rehabilitation services rendered to Medicaid recipients who are age 3 and older, outpatient clinic services, and outpatient laboratory services (*Louisiana Register*, Volume 29, Number 7).

Act 182 of the 2005 Regular Session of the Louisiana Legislature, enacted as the Healthcare Affordability Act, established the Louisiana Healthcare Affordability Trust Fund as a special fund in the state treasury for the purposes of preserving and enhancing the availability of inpatient and outpatient hospital care for all patients, enhancing the stability of Medicaid funding by capturing a reliable source of funding for a portion of the state's obligation, and easing "cost-shifting" to employers and private insurers by providing reimbursement for a portion of hospitals' uncompensated care and Medicaid underpayment. The monies in the fund shall be generated by a provider fee levied on all hospitals licensed by the state under R.S. 40:2100 et seq., except for those hospitals specifically exempted by the provisions contained in Act 182. In order to comply with the directives of the Act, the bureau amended by Emergency Rule the methodology for reimbursements paid for outpatient services rendered in private (nonstate) acute hospitals (*Louisiana Register*, Volume 31, Number 7). This Emergency Rule is being promulgated to continue the provisions contained in the July 1, 2005 Emergency Rule.

This action is being taken to enhance federal revenues.

Emergency Rule

Effective for dates of service on or after October 30, 2005, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the reimbursement methodology for outpatient hospital services rendered in private (nonstate) acute hospitals to increase the reimbursement paid in the current fiscal year by at least 13 percent greater than the base year Medicaid hospital rate. If the hospital outpatient payment is based on costs reported on the Medicaid cost report, the cost settlement in the current fiscal year is at least 13 percent greater than the base year Medicaid hospital cost settlement rate. The amount of the increase to the per diem rate will be adjusted if the total reimbursement rate increases exceed the $170,000,000 total additional annual costs to the state set forth in Act 182 of the 2005 Regular Session of the Louisiana Legislature.

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 Ben A. Bearden, 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.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0510#084

DECLARATION OF EMERGENCY

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

Pharmacy Benefits Management Program
Erectile Dysfunction Drugs Coverage Termination

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This 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 currently provides coverage for prescription drugs for treatment of erectile dysfunction under the Pharmacy Benefits Management Program. The bureau promulgated a Rule that limited the number of units of these drugs that are reimbursable under the Medicaid Program to six units per month (*Louisiana Register*, Volume 25, Number 5). The bureau amended the May 20, 1999 Rule and reduced the number of units of erectile dysfunction drugs that are reimbursable to one per month (*Louisiana Register*, Volume 31, Number 3). The bureau by Emergency Rule repealed the May 20, 1999 and March 20, 2005 Rules and terminated coverage of erectile dysfunction drugs under the Medicaid Program (*Louisiana Register*, Volume 31, Number 7). This Emergency Rule is being promulgated to continue provisions of the July 1, 2005 Emergency Rule.

This action is being taken in order to avoid federal sanctions.

Emergency Rule

Effective October 30, 2005, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing discontinues coverage and reimbursement of prescription drugs for the treatment of erectile dysfunction under the Medicaid Program.

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 Ben A. Bearden, 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.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0510#086

DECLARATION OF EMERGENCY

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

Pharmacy Benefits Management Program
Parenteral Therapy

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Emergency Rule 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 Rules to adopt the provisions governing the Parenteral Nutrition Therapy (*Louisiana Register*, Volume 31, Number 1). In compliance with guidelines established by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services, the bureau by Emergency Rule repealed the provisions governing Parenteral Therapy in the Durable Medical Equipment Program and repromulgated these provisions under the Pharmacy Benefits Management Program (*Louisiana Register*, Volume 31, Number 7). This Emergency Rule is being promulgated to continue provisions contained in the July 1, 2005 Emergency Rule.

Emergency Rule

Effective October 30, 2005, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following Rules for Parenteral Nutrition Therapy in the Pharmacy Benefits Management Program.

Parenteral Nutrition Therapy

A. Parenteral nutrition (PN) therapy is the introduction of nutrients by some means other than through the gastrointestinal tract, in particular intraveneous, subcutaneous, intramuscular, or intramedullary injection. Intravenous nutrition is also referred to as TPN (Total Parenteral Nutrition) or Hyperalimentation Therapy.

Medical Necessity Criteria

A. Parenteral nutrition is covered for a recipient with permanent, severe pathology of the alimentary tract which does not allow absorption of sufficient nutrients to maintain weight and strength commensurate with the recipient's general condition.

B. Parenteral nutrition is considered to be medically necessary when any of the following conditions exists. The conditions must be deemed to be severe enough that the recipient would not be able to maintain his/her weight and strength on only oral intake or tube enteral nutrition. The recipient:

1. has undergone recent (within the past three months) massive small bowel resection leaving less than or equal to 5 feet of small bowel beyond the ligament of Treitz; or

2. has a short bowel syndrome that is severe enough that the recipient has net gastrointestinal fluid and electrolyte malabsorption such that on an oral intake of 2.5-3 liters/day the enteral losses exceed 50 percent of the oral/enteral intake and the urine output is less than 1 liter/day; or

3. requires bowel rest for at least three months and is receiving intravenously 20-35 cal/kg/day for treatment of symptomatic pancreatitis with/without pancreatic pseudocyst, severe exacerbation of regional enteritis, or a proximal enterocutaneous fistula where tube feeding distal to the fistula is not possible; or

4. has complete mechanical small bowel obstruction where surgery is not an option; or

5. is significantly malnourished (10 percent weight loss over three months or less and serum albumin less than or equal to 3.4 gm/dl) and has very severe fat malabsorption (fecal fat exceeds 50 percent of oral/enteral intake on a diet of at least 50 gm of fat/day as measured by a standard 72 hour fecal fat test); or

6. is significantly malnourished (10 percent weight loss over three months or less and serum albumin less than or equal to 3.4 gm/dl) and has a severe motility disturbance of the small intestine and/or stomach which is unresponsive to prokinetic medication. Prokinetic medication is defined as the presence of daily symptoms of nausea and vomiting while taking maximal doses and is demonstrated either:

a. scintigraphically (solid meal gastric emptying study demonstrates that the isotope fails to reach the right colon by six hours following ingestion); or

b. radiographically (barium or radiopaque pellets fail to reach the right colon by six hours following administration).

Note: These studies must be performed when the recipient is not acutely ill and is not on any medication which would decrease bowel motility.

C. Maintenance of weight and strength commensurate with the recipient's overall health status must require intravenous nutrition and must not be possible utilizing all of the following approaches:

1. modifying the nutrient composition of the enteral diet (e.g., lactose free, gluten free, low in long chain triglycerides, substitution with medium chain triglycerides, provision of protein as peptides or amino acids, etc.); and

2. utilizing pharmacologic means to treat the etiology of the malabsorption (e.g., pancreatic enzymes or bile salts, broad spectrum antibiotics for bacterial overgrowth, prokinetic medication for reduced motility, etc.).

D. Recipients who do not meet the criteria in B.1-6 must meet criteria in C.1-2 (modification of diet and pharmacologic intervention) in addition to the following criteria:

1. the recipient is malnourished (10 percent weight loss over three months or less and serum albumin less than or equal to 3.4 gm/dl); and

2. a disease and clinical condition has been documented as being present and it has not responded to altering the manner of delivery of appropriate nutrients (e.g., slow infusion of nutrients through a tube with the tip located in the stomach or jejunum).

E. The following are some examples of moderate abnormalities which would require a failed trial of tube enteral nutrition before PN would be covered:

1. moderate fat malabsorption - fecal fat exceeds 25 percent of oral/enteral intake on a diet of at least 50 gm fat/day as measured by a standard 72 hour fecal fat test;

2. diagnosis of malabsorption with objective confirmation by methods other than 72 hour fecal fat test (e.g., Sudan stain of stool, dxylose test, etc.);

3. gastroparesis which has been demonstrated:

a. radiographically or scintigraphically as described in Subsection B above with the isotope or pellets failing to reach the jejunum in three to six hours; or

b. by manometric motility studies with results consistent with an abnormal gastric emptying, and which is unresponsive to prokinetic medication;

4. a small bowel motility disturbance which is unresponsive to prokinetic medication, demonstrated with a gastric to right colon transit time between three to six hours;

5. small bowel resection leaving greater than 5 feet of small bowel beyond the ligament of Treitz;

6. short bowel syndrome which is not severe (as defined in Paragraph B.2);

7. mild to moderate exacerbation of regional enteritis, or an enterocutaneous fistula;

8. partial mechanical small bowel obstruction where surgery is not an option.

F. Documentation must support that a concerted effort has been made to place a tube. For gastroparesis, tube placement must be post-pylorus, preferably in the jejunum. Use of a double lumen tube should be considered. Placement of the tube in the jejunum must be objectively verified by radiographic studies or luoroscopy. Placement via endoscopy or open surgical procedure would also verify location of the tube.

G. A trial with enteral nutrition must be documented, with appropriate attention to dilution, rate, and alternative formulas to address side effects of diarrhea.

H. PN can be covered in a recipient with the ability to obtain partial nutrition from oral intake or a combination of oral/enteral or oral/enteral/parenteral intake as long as the following criteria are met:

1. a permanent condition of the alimentary tract is present which has been deemed to require parenteral therapy because of its severity;

2. a permanent condition of the alimentary tract is present which is unresponsive to standard medical management; and

3. the person is unable to maintain weight and strength.

I. If the medical necessity criteria for parenteral nutrition are met, medically necessary nutrients, administration supplies and equipment are covered. PN solutions containing little or no amino acids and/or carbohydrates would be covered only in situations stated in Paragraphs B.1, 2, or 4 above.

J. Documentation Requirements

1. Recipients covered under Paragraph B.4 must have documentation of the persistence of their condition. Recipients covered under Subsections B.5-D.2 must have documentation that sufficient improvement of their underlying condition has not occurred which would permit

discontinuation of parenteral nutrition. Coverage for these recipients would be continued if the treatment has been effective as evidenced by an improvement of weight and/or serum albumin. If there has been no improvement, subsequent claims will be denied unless the physician clearly documents the medical necessity for continued parenteral nutrition and any changes to the therapeutic regimen that are planned, e.g., an increase in the quantity of parenteral nutrients provided.

2. A total caloric daily intake (parenteral, enteral and oral) of 20-35 cal/kg/day is considered sufficient to achieve or maintain appropriate body weight. The ordering physician must document in the medical record the medical necessity for a caloric intake outside this range in an individual recipient.

3. Parenteral nutrition would usually be noncovered for recipients who do not meet criteria in Paragraphs H.1-3, but will be considered on an individual case basis if detailed documentation is submitted.

4. Recipients covered under criteria in Paragraphs B.1 or 2 must have documentation that adequate small bowel adaptation had not occurred which would permit tube enteral or oral feedings.

5. Recipients covered under Paragraph B.3 must have documentation of worsening of their underlying condition during attempts to resume oral feedings.

6. The ordering physician must document the medical necessity for protein orders outside of the range of 0.8-1.5 gm/kg/day, dextrose concentration less than 10 percent, or lipid use greater than 15 units of a 20 percent solution or 30 units of a 10 percent solution per month.

7. If the medical necessity for special parenteral formulas is not substantiated, authorization of payment will be denied.

Exclusionary Criteria

A. Parenteral nutrition will be denied as non-covered in situations involving temporary impairments. The recipient must have:

1. a condition involving the small intestine and/or its exocrine glands which significantly impairs the absorption of nutrients; or

2. a disease of the stomach and/or intestine which is a motility disorder and impairs the ability of nutrients to be transported through the GI system. There must be objective evidence supporting the clinical diagnosis.

B. Parenteral nutrition is non-covered for the recipient with a functioning gastrointestinal tract whose need for parenteral nutrition is only due to:

1. a swallowing disorder;

2. a temporary defect in gastric emptying such as a metabolic or electrolyte disorder;

3. a psychological disorder impairing food intake such as depression;

4. a metabolic disorder inducing anorexia such as cancer;

5. a physical disorder impairing food intake such as the dyspnea of severe pulmonary or cardiac disease;

6. a side effect of a medication; or

7. renal failure and/or dialysis.

Prior Authorization

A. Parenteral nutrition therapy may be approved by the Prior Authorization Unit (PAU) at periodic intervals not to exceed six months. However, Medicaid will pay for no more than one month's supply of nutrients at any one time. All requests to the PAU shall include:

1. the prognosis as well as the diagnosis;

2. the date the recipient was first infused;

3. whether the recipient has been trained to use parenteral equipment;

4. a statement that the recipient is capable of operating the parenteral equipment;

5. either the Medicaid certificate of medical necessity form for TPN, or the Medicare certificate of medical necessity form, Form DMERC 10.02A, completed and signed by the treating physician;

6. documentation showing that the recipient has a permanent impairment. Permanence does not require a determination that there is no possibility that the recipient's condition may improve sometime in the future. Medical documentation must substantiate that the condition is expected to last a long and indefinite duration (at least three months).

B. Additional documentation must be included with the initial request for parenteral nutrition.

1. In the situations addressed in Paragraphs B.1-4 under Medical Necessity Criteria, the documentation must include copies of the operative report and/or hospital discharge summary and/or x-ray reports and/or a physician letter which document the condition and the necessity for PN therapy.

2. For the situations addressed in Paragraphs B.5 and D.2 under Medical Necessity Criteria (when appropriate), include the results of the fecal fat test and dates of the test.

3. For the situations addressed in Paragraphs B.6 and D.2 under Medical Necessity Criteria, include a copy of the report of the small bowel motility study and a list of medications that the recipient was on at the time of the test.

4. For the situations addressed in Subsections B.5-D.2 under Medical Necessity Criteria, include the results of serum albumin and the date of the test (within one week prior to initiation of PN) and a copy of a nutritional assessment by a physician, dietitian or other qualified professional within one week prior to initiation of PN, to include the following information:

a. current weight with date and weight one – three months prior to initiation of PN;

b. estimated daily calorie intake during the prior month and by what route (e.g., oral, tube);

c. statement of whether there were caloric losses from vomiting or diarrhea and whether these estimated losses are reflected in the calorie count;

d. description of any dietary modifications made or supplements tried during the prior month (e.g., low fat, extra medium chain triglycerides, etc.).

5. For situations described in Paragraph D.2 under Medical Necessity Criteria, include:

a. a statement from the physician;

b. copies of objective studies; and

c. excerpts of the medical record giving the following information:

i. specific etiology for the gastroparesis, small bowel dysmotility, or malabsorption;

ii. a detailed description of the trial of tube enteral nutrition including the beginning and ending dates of the

trial, duration of time that the tube was in place, the type and size of tube, the location of tip of the tube, the name of the enteral nutrient, the quantity, concentration, and rate of administration, and the results;

iii. a copy of the x-ray report or procedure report documenting placement of the tube in the jejunum;

iv. prokinetic medications used, dosage, and dates of use;

v. nondietary treatment given during prior month directed at etiology of malabsorption (e.g., antibiotic for bacterial overgrowth); and

vi. any medications used that might impair GI tolerance to enteral feedings (e.g., anticholinergics, opiates, tricyclics, phenothiazines, etc.) or that might interfere with test results (e.g., mineral oil, etc.) and a statement explaining the need for these medications.

6. Any other information which supports the medical necessity for parenteral nutrition may also be included.

Intradialytic Parenteral Nutrition

A. Intradialytic Parenteral Nutrition Therapy (IDPN) is parenteral nutrition therapy provided to a recipient with end stage renal disease (ESRD) while the recipient is being dialyzed.

B. In order to cover IDPN, documentation must be clear and precise to verify that the recipient suffers from a permanently impaired gastrointestinal tract and that there is insufficient absorption of nutrients to maintain adequate strength and weight. The supporting documentation must substantiate that the recipient cannot be maintained on oral or enteral feedings and that due to severe pathology of the alimentary tract, the recipient must be intravenously infused with nutrients.

C. Infusions must be vital to the nutritional stability of the recipient and not supplemental to a deficient diet or deficiencies caused by dialysis. Physical signs, symptoms and test results indicating severe pathology of the alimentary tract must be clearly evident in any documentation submitted. Recipients receiving IDPN must also meet the criteria for parenteral nutrition.

D. If the medical necessity criteria for parenteral nutrition are met, one supply kit and one administration kit will be covered for each day that parenteral nutrition is administered, if such kits are medically necessary and used.

Additional Documentation

A. For the initial request and for revised requests or reconsiderations involving a change in the order, there must be additional documentation to support the medical necessity of the following orders, if applicable:

1. the need for special nutrients;

2. the need for dextrose concentration less than 10 percent;

3. the need for lipids more than 15 units of a 20 percent solution or 30 units of a 10 percent solution per month.

B. After the first six months, the PA request must include a physician's statement describing the continued need for parenteral nutrition. For situations described in Subsections B.5-D.2 under Medical Necessity Criteria, the PA request must include the results of the most recent serum albumin (within two weeks of the request date) and the recipient's most recent weight with the date of each. If the results indicate malnutrition, there should be a physician's statement describing the continued need for parenteral nutrition and any changes to the therapeutic regimen that are planned.

Equipment and Supplies

A. An infusion pump is used to deliver nutritional requirements intravenously. Infusion pumps are covered for the delivery of parenteral nutrition for those recipients who cannot absorb nutrients by the gastrointestinal tract. Only one pump (ambulatory or stationary) will be covered at any one time. Additional pumps will be denied as not medically necessary.

1. An external ambulatory infusion pump is a small portable electrical device that is used to deliver parenteral nutrition. It is designed to be carried or worn by the recipient.

2. A stationary infusion pump is an electrical device, which serves the same purpose as an ambulatory pump, but is larger and typically mounted on a pole.

B. An IV pole is a device to suspend fluid to be administered by gravity or pump. An IV pole will be covered when a recipient is receiving parenteral fluids and the recipient is not using an ambulatory infusion pump.

C. Infusion pumps, ambulatory and stationary, are indicated for the administration of parenteral medication in the home when parenteral administration of the medication in the home is reasonable and medically necessary, and an infusion pump is necessary to safely administer the medication.

D. An external ambulatory infusion pump is a small portable electrical device that is used to deliver parenteral medication. It is designed to be carried or worn by the recipient.

Reimbursement Methodology

A. The reimbursement rate for parenteral nutrition formula is 80 percent of the Medicare Fee Schedule amount or billed charges, whichever is the lesser amount.

B. The reimbursement rate for parenteral equipment and supplies is 70 percent of the Medicare Fee Schedule amount or billed charges, whichever is the lesser amount. If an item is not available at 70 percent of the 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.

Interested persons may submit written comments to Ben A. Bearden at the following address: 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.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0510#085

DECLARATION OF EMERGENCY

Department of Insurance
Office of the Commissioner

Rule 15CSuspension of Certain Statutes and Regulations Regarding Cancellations, Non-Renewals, Reinstatements, Premium Payments, Claim Filings and Related Provisions Regarding Any and All Insurance Matters Affecting Insureds in Louisiana Caused by Hurricane Katrina (LAC 37:XI.Chapter 27)

Emergency Rule 15 is issued pursuant to the plenary authority of the Commissioner of Insurance for the State of Louisiana, including, but not limited to, the following: Proclamation No. 48 KBB 2005 issued on August 26, 2005 by Governor Kathleen Babineaux Blanco declaring a State of Emergency; Executive Order No. KBB 2005 - 40 issued September 19, 2005 by Governor Kathleen Babineaux Blanco transferring authority over any and all insurance matters to Commissioner of Insurance J. Robert Wooley (commissioner); R.S. 29:724; R.S. 29:766; R.S. 22:2; R.S. 22:3; R.S. 22:1214.(7), (12) and (14); R.S. 49:950 et seq.

On August 26, 2005, Governor Kathleen Babineaux Blanco declared the existence of a State of Emergency within the state of Louisiana caused by Hurricane Katrina. This State of Emergency extends from Friday, August 26, 2005 through Sunday, September 25, 2005.

Thousands of Louisiana citizens have suffered damages due to Hurricane Katrina. In some places, it could be months before electricity is restored. The homes of many Louisiana citizens were destroyed precluding habitation and the delivery of mail. This disruption has affected the ability of these citizens to pay their insurance premiums, access their insurance policies, and communicate with insurance agents and their respective insurance companies for insurance related matters. Hurricane Katrina has created a mass disruption to the normalcy previously enjoyed by Louisianians and produced an immediate threat to the public health, safety, and welfare of Louisiana citizens.

The commissioner will be hindered in the proper performance of the duties and responsibilities regarding this State of Emergency without the authority to suspend certain statutes in the Louisiana Insurance Code and the rules and regulations that implement the Louisiana Insurance Code including, but not limited to, cancellation, nonrenewal, reinstatement, premium payment and claim filings with regard to any and all types of insurance subject to the Louisiana Insurance Code.

In light of this, Emergency Rule 15 is issued and shall apply to all insurers, HMOs, health and accident insurers, property and casualty insurers, surplus lines insurers and any and all other entities doing business in Louisiana and/or regulated by the commissioner, including any entity enumerated in Emergency Rule 17, regarding any and all types of insurance, including, but not limited to, flood insurance, homeowners insurance, life insurance, health and accident insurance, limited benefit insurance, vehicle insurance, liability insurance, workers' compensation insurance, burglary and forgery insurance, glass insurance, fidelity and surety insurance, title insurance, fire and extended coverage insurance, steam boiler and sprinkler leakage insurance, crop and livestock insurance, marine and transportation insurance, credit life, medical supplement insurance, credit property and casualty insurance, annuity insurance, HMOs, professional and medical malpractice liability insurance, property and casualty insurance, all surplus lines insurance, self insurance funds, reciprocal insurance and any and all other insurance related entities licensed by the Commissioner or doing business in Louisiana.

Emergency Rule 15 is applicable to insureds, as defined in §2701, from the following seven primary parishes: Jefferson, Orleans, Plaquemines, St. Bernard, St. Tammany, Tangipahoa, and Washington. Emergency Rule 15 is also applicable to insureds, as defined in §2701, from the following seven secondary parishes: Lafourche, Livingston, St. Charles, St. James, St. John the Baptist, St. Mary and Terrebonne. The zip codes applicable to these seven primary parishes include, but may not be limited to, the list identified as "Hurricane Katrina Seven Primary Parish Zip Code List" found on the official Louisiana Department of Insurance Web site at www.ldi.state.la.us. The zip codes applicable to the seven secondary parishes include, but may not be limited to, the list identified as "Hurricane Katrina Seven Secondary Parish Zip Code List" found on the official Louisiana Department of Insurance Web site at www.ldi.state.la.us. Insureds shall include, but not be limited to, any and all policyholders, members, subscribers and certificate holders.

In the ordinary course of business, insurers, HMOs, health and accident insurers, property and casualty insurers, surplus lines insurers and any and all other entities doing business in Louisiana and/or regulated by the commissioner and other entities send notices to insureds, many of which are required by statute, giving the insured certain limited periods of time within which to pay premiums or otherwise respond. Hurricane Katrina and its aftermath have produced a disruption in the notification process because of the inability of insureds to receive mail due to mandatory evacuations and/or the destruction of their homes. Thus, many of Hurricane Katrina's victims are currently unable to timely act or respond to such notices or to pay insurance premiums and need additional time within which to act or respond. Some insurers, HMOs, health and accident insurers, property and casualty insurers, surplus lines insurers and any and all other entities doing business in Louisiana and/or regulated by the Commissioner and other entities may attempt to cancel, nonrenew or not reinstate such insurance policies. Additionally, some insureds with policies in force as of 12:01 a.m. on August 26, 2005, who wish to make timely payment, are also prevented from making such payment because of the aforementioned circumstances. This could result in an insured being without coverage and/or potentially uninsured. Emergency Rule 15 provides emergency relief to the insureds of Louisiana affected by Hurricane Katrina and its aftermath so that they will be insured and their coverage will continue under those policies that were in effect as of 12:01 a.m. on August 26, 2005.

Title 37
INSURANCE
Part XI. Rules

Chapter 27. Emergency Rule 15CSuspension of Certain Statutes and Regulations Regarding Cancellations, Non-Renewals, Reinstatements, Premium Payments, Claim Filings and Related Provisions Regarding Any and All Insurance Matters Affecting Insureds in Louisiana Caused by Hurricane Katrina

§2701. Benefits, Entitlements, and Protections

A. The benefits, entitlements and protections of Emergency Rule 15 shall be applicable to insureds who, as of 12:01 a.m. on August 26, 2005 had a policy or contract for any of the types of insurance enumerated in §2703.A, and meet one of the following criteria.

1. Any person who, as of August 26, 2005, resided in one of the following seven primary parishes: Jefferson, Orleans, Plaquemines, St. Bernard, St. Tammany, Tangipahoa and Washington. The zip code for these seven primary parishes is on the list identified as "Hurricane Katrina Seven Primary Parish Zip Code List" found on the official Louisiana Department of Insurance Web site at www.ldi.state.la.us.

2. Any person whose primary place of employment was in, or whose permanent employer had assigned said person to a business located in, one of the seven primary parishes enumerated in §2701.A shall be eligible to be defined as an insured if said person verifies such employment status by written documentation to his insurer. No insurer shall unreasonably withhold eligibility to an insured upon receipt of such written documentation.

3. Any person who, as of August 26, 2005, resided in one of the following seven secondary parishes: Lafourche, Livingston, St. Charles, St. James, St. John the Baptist, St. Mary and Terrebonne. However any such person shall only be eligible to be defined as an insured if said person obtains written documentation from either the chief executive officer of the applicable parish of the person or the United States Postal Service that said person incurred an interruption of mail service after August 26, 2005. The zip code for these seven secondary parishes is on the list identified as "Hurricane Katrina Seven Secondary Parish Zip Code List" found on the official Louisiana Department of Insurance internet Web site at www.ldi.state.la.us.

4. Nothing in Emergency Rule 15 shall preclude an insurer from voluntarily applying the provisions of Emergency Rule 15 relating to cancellation, nonrenewal and nonreinstatement to any other person who is an insured and who resides in any parish other than the parishes set forth in §2701A.1 or 3.

AUTHORITY NOTE: Promulgated in accordance with Executive Order KBB 05-48, R.S. 29:724, R.S. 29:766, R.S. 22:2, R.S. 22:3, R.S. 22:1214.(7), (12) and (14), R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

§2703. Application

A. Emergency Rule 15 shall apply to any and all types of insurance, including, but not limited to, flood insurance, homeowners insurance, life insurance, health and accident insurance, limited benefit insurance, vehicle insurance, liability insurance, workers' compensation insurance, burglary and forgery insurance, glass insurance, fidelity and surety insurance, title insurance, fire and extended coverage insurance, steam boiler and sprinkler leakage insurance, crop and livestock insurance, marine and transportation insurance, credit life, medical supplement insurance, credit property and casualty insurance, annuity insurance, HMOs, professional and medical malpractice liability insurance, property and casualty insurance, all surplus lines insurance, self insurance funds, disability insurance, reciprocal insurance and any and all other insurance related entities licensed by the commissioner or doing business in Louisiana.

B. Any statutory or regulatory provision, or any policy provision contained in any and all policies of insurance set forth in Subsection A above, shall be suspended to the extent that said statutory or regulatory provision, or policy provision, imposed upon an insured a time limit to perform any act or transmit information or funds with respect to any insurance enumerated in Subsection A above, which act or transmittal was to have been performed on or after 12:01 a.m. on August 26, 2005. The time limit for any such performance, act or transmittal shall be suspended during the term of the present State of Emergency, and any subsequent State of Emergency declared thereafter, with regard to Hurricane Katrina or its aftermath.

AUTHORITY NOTE: Promulgated in accordance with Executive Order KBB 05-48, R.S. 29:724, R.S. 29:766, R.S. 22:2, R.S. 22:3, R.S. 22:1214.(7), (12) and (14), R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

§2705. Cancellation , Nonrenewal, and Nonreinstatement

A. Emergency Rule 15 hereby suspends any notice of cancellation, notice of nonrenewal, nonreinstatement or any other notice related to any of the types of insurance enumerated in §2703.A that was in force and effect at 12:01 a.m. on August 26, 2005, and any such action shall be null and void and have no force or effect. Furthermore, any such notice shall be reissued *de novo* to the insured in accordance with existing statutory requirements after the expiration of the present State of Emergency, or any subsequent State of Emergency, related to Hurricane Katrina or its aftermath has been lifted by Governor Kathleen Babineaux Blanco.

B. Any and all provisions in the Louisiana Insurance Code relative to providing for a premium finance company to act on behalf of and/or as agent for an insurance company are hereby suspended. In furtherance thereof, the right, entitlement, legal provision or any other form of legal authority, including any policy provision, of any and all insurers to send a notice of cancellation is suspended effective 12:01 a.m. on August 26, 2005 and shall remain suspended during the State of Emergency related to Hurricane Katrina and its aftermath. Emergency Rule 15 hereby suspends the right of any insurer to utilize the services of a premium finance company to issue any such notice to any insured.

C. No policy shall be cancelled or nonrenewed solely because of a claim resulting from Hurricane Katrina or its aftermath.

D. Except as provided for in §2703.B, the cancellation of any and all types of insurance enumerated in §2705.A, including, but not limited to, flood insurance, homeowners insurance, life insurance, health and accident insurance,

limited benefit insurance, vehicle insurance, liability insurance, workers' compensation insurance, burglary and forgery insurance, glass insurance, fidelity and surety insurance, title insurance, fire and extended coverage insurance, steam boiler and sprinkler leakage insurance, crop and livestock insurance, marine andtransportation insurance, credit life, medical supplement insurance, credit property and casualty insurance, annuity insurance, HMOs, professional and medical malpractice liability insurance, property and casualty insurance, all surplus lines insurance, self insurance funds, disability insurance, reciprocal insurance and any and all other insurance related entities licensed by the commissioner or doing business in Louisiana, is hereby suspended and shall not be allowed until the State of Emergency declared by Governor Kathleen Babineaux Blanco with regard to Hurricane Katrina or its aftermath has been lifted.

E. Except as provided for in §2705.B the nonrenewal or nonreinstatement of any and all types of insurance enumerated in §2705 herein and in §3101.B, including any and all other insurance licensed by the commissioner, or doing business in Louisiana, that was in effect at 12:01 a.m. on August 26, 2005 is hereby suspended and shall be deferred until January 1, 2006.

F. Any rate increase that may be applicable to any and all types of insurance enumerated in §2703 herein and in §3101.B, including any and all other insurance licensed by the commissioner, or doing business in Louisiana, that was in effect at 12:01 a.m. on August 26, 2005 shall be deferred until January 1, 2006, and said insurance shall continue in full force and effect until January 1, 2006 at the previously established premium.

AUTHORITY NOTE: Promulgated in accordance with Executive Order KBB 05-48, R.S. 29:724, R.S. 29:766, R.S. 22:2, R.S. 22:3, R.S. 22:1214.(7), (12) and (14), R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

§2707. Copy of Policy

A. If an insured requests from his insurer a copy of the policy the insurer shall provide a copy of the requested policy to the insured without any charge or fee.

AUTHORITY NOTE: Promulgated in accordance with Executive Order KBB 05-48, R.S. 29:724, R.S. 29:766, R.S. 22:2, R.S. 22:3, R.S. 22:1214.(7), (12) and (14), R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

§2709. New Polices

A. The provisions of Emergency Rule 15 shall not apply to any new policies of insurance for the types of insurance enumerated in Emergency Rule 15 if said insurance policy was issued on or after 12:01 a.m. August 26, 2005.

AUTHORITY NOTE: Promulgated in accordance with Executive Order KBB 05-48.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

§2711. New Rate or Premium

A. Emergency Rule 15 shall not affect the right of any insurer to implement a new rate or premium for any policy of insurance enumerated in §2703.B if the new rate or premium had been approved for implementation by the commissioner on or before July 31, 2005, or if the insurer had mailed to the insurer the notice of the new rate or premium on or before July 31, 2005.

AUTHORITY NOTE: Promulgated in accordance with Executive Order KBB 05-48, R.S. 29:724, R.S. 29:766, R.S. 22:2, R.S. 22:3, R.S. 22:1214.(7), (12) and (14), R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

§2713. Premium Offset

A. All insurers regulated by Emergency Rule 15, including, but not limited to, property and casualty insurers, surplus lines insurers and any and all other entities doing business in Louisiana and/or regulated by the commissioner and other similar or related entities receiving a claim from an insured owing a premium may offset the premium that is owed by the insured from any claim payment made to the insured under the policy. §2715 is not applicable to health insurance issuers, HMOs, PPOs, MCOs, TPAs or any other health insurance entities doing business in Louisiana and/or regulated by the commissioner.

AUTHORITY NOTE: Promulgated in accordance with Executive Order KBB 05-48, R.S. 29:724, R.S. 29:766, R.S. 22:2, R.S. 22:3, R.S. 22:1214.(7), (12) and (14), R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

§2715. Written Request for Cancellation

A. A cancellation shall not occur prior to the expiration of the State of Emergency or any subsequent State of Emergency related to Hurricane Katrina and its aftermath, unless upon the documented written request or written concurrence of the insured.

AUTHORITY NOTE: Promulgated in accordance with Executive Order KBB 05-48, R.S. 29:724, R.S. 29:766, R.S. 22:2, R.S. 22:3, R.S. 22:1214.(7), (12) and (14), R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

§2717. Obligation to Pay Premium

A. Unless otherwise cancelled pursuant to the provisions of §2715 herein, nothing in Emergency Rule 15 shall be construed to exempt or excuse an insured from the obligation to pay the premiums otherwise due for actual insurance coverage provided.

AUTHORITY NOTE: Promulgated in accordance with Executive Order KBB 05-48, R.S. 29:724, R.S. 29:766, R.S. 22:2, R.S. 22:3, R.S. 22:1214.(7), (12) and (14), R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

§2719. Fraud or Material Misrepresentation

A. Emergency Rule 15 shall not prevent an insurer from canceling or terminating a policy of insurance for fraud or material misrepresentation on the part of the insured.

AUTHORITY NOTE: Promulgated in accordance with Executive Order KBB 05-48, R.S. 29:724, R.S. 29:766, R.S. 22:2, R.S. 22:3, R.S. 22:1214.(7), (12) and (14), R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

§2721. Insured's Obligation

A. Emergency Rule 15 shall not relieve an insured who has a claim caused by Hurricane Katrina or its aftermath from compliance with the insured's obligation to provide information and cooperate in the claim adjustment process relative to the claim.

AUTHORITY NOTE: Promulgated in accordance with Executive Order KBB 05-48, R.S. 29:724, R.S. 29:766, R.S. 22:2, R.S. 22:3, R.S. 22:1214.(7), (12) and (14), R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

§2723. Interest, Penalty, Fee, or Other Charge

A. The right of an insurer to impose or levy any interest, penalty, fee or other charge is hereby suspended until the present State of Emergency, or any subsequent State of Emergency, related to Hurricane Katrina or its aftermath has been lifted by Governor Kathleen Babineaux Blanco.

AUTHORITY NOTE: Promulgated in accordance with Executive Order KBB 05-48, R.S. 29:724, R.S. 29:766, R.S. 22:2, R.S. 22:3, R.S. 22:1214.(7), (12) and (14), R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

§2725. Exemption from Compliance

A. Notwithstanding any other provision contained herein, the commissioner may exempt any insurer from compliance with Emergency Rule 15 upon the written request by the insurer if the commissioner determines that compliance with Emergency Rule 15 may be reasonably expected to result in said insurer being subject to undue hardship, impairment, or insolvency.

AUTHORITY NOTE: Promulgated in accordance with Executive Order KBB 05-48, R.S. 29:724, R.S. 29:766, R.S. 22:2, R.S. 22:3, R.S. 22:1214.(7), (12) and (14), R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

§2727. Purpose

A. The provisions of Emergency Rule 15 shall be liberally construed to effectuate the intent and purposes expressed herein and to afford maximum consumer protection for the insureds of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with Executive Order KBB 05-48, R.S. 29:724, R.S. 29:766, R.S. 22:2, R.S. 22:3, R.S. 22:1214.(7), (12) and (14), R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

§2729. Penalty for Violation

A. The commissioner retains the sole authority to enforce violations of Emergency Rule 15. Accordingly, any insurer enumerated in Emergency Rule 15 or other entity doing business in Louisiana and/or regulated by the commissioner who violates any provision of Emergency Rule 15 shall be subject to prosecution by the commissioner under any applicable provisions of the Louisiana Insurance Code, including the provisions of the R.S. 22:250.41, et seq., 22:1211, et seq., and specifically including, but not limited to, R.S. 22:1214(7), (12) and (14). Additionally, the penalty provisions set forth in R.S. 22:1217 shall be applicable. These provisions include penalties of $1,000 for each separate act, or $25,000 for each separate act if the violator knew or reasonably should have known he was in violation of Emergency Rule 15, as well as a cease and desist order and the imposition of other penalties and suspension or revocation of the license. Additionally, R.S. 22:1220, which, among other things, imposes the obligation of good faith and fair dealing shall also be subject to the sole enforcement authority of the commissioner. This law sets forth penalties and exemplary damages which shall be enforceable by the commissioner for any violation of Emergency Rule 15. Finally, the commissioner reserves the sole right to make the determination regarding whether any violator shall be subject to any and all other applicable civil and criminal sanctions for violations of Emergency Rule 15.

AUTHORITY NOTE: Promulgated in accordance with Executive Order KBB 05-48, R.S. 29:724, R.S. 29:766, R.S. 22:2, R.S. 22:3, R.S. 22:1214.(7), (12) and (14), R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

§2731. Rule Amendment

A. The commissioner reserves the right to amend, modify, alter or rescind all or any portions of Emergency Rule 15.

AUTHORITY NOTE: Promulgated in accordance with Executive Order KBB 05-48, R.S. 29:724, R.S. 29:766, R.S. 22:2, R.S. 22:3, R.S. 22:1214.(7), (12) and (14), R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

§2732. Severability Clause

A. If any section or provision of Emergency Rule that is held invalid, such invalidity or determination shall not affect other sections or provisions, or the application of Emergency Rule 15, to any persons or circumstances that can be given effect without the invalid sections or provisions and the application to any person or circumstance shall be severable.

AUTHORITY NOTE: Promulgated in accordance with Executive Order KBB 05-48, R.S. 29:724, R.S. 29:766, R.S. 22:2, R.S. 22:3, R.S. 22:1214.(7), (12) and (14), R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

§2733. Effective Date

A. Emergency Rule 15 shall become effective at 12:01 a.m. on August 26, 2005 and shall continue in full force and effect for the duration of the present State of Emergency proclaimed by Governor Kathleen Babineaux Blanco, or any subsequent State of Emergency proclamation made thereafter.

AUTHORITY NOTE: Promulgated in accordance with Executive Order KBB 05-48, R.S. 29:724, R.S. 29:766, R.S. 22:2, R.S. 22:3, R.S. 22:1214.(7), (12) and (14), R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

J. Robert Wooley
Commissioner

0510#009

DECLARATION OF EMERGENCY

Department of Insurance
Office of the Commissioner

Rule 16CRegistration of Public Insurance Adjusters Actively Engaged in the Settlement of Claims and Damages Resulting from Hurricane Katrina (LAC 37:XI.Chapter 29)

Emergency Rule 16 is issued pursuant to the plenary authority of the Commissioner of Insurance for the state of Louisiana, including, but not limited to, the following: Proclamation No. 48 KBB 2005 issued on August 26, 2005 by Governor Kathleen Babineaux Blanco declaring a State of Emergency; Executive Order No. KBB 2005 - 40 issued September 19, 2005 by Governor Kathleen Babineaux Blanco transferring authority over any and all insurance matters to Commissioner of Insurance J. Robert Wooley (commissioner); R.S. 29:724; R.S. 29:766; R.S. 22:2; R.S. 22:3; R.S. 22:1214.(7), (12) and (14); R.S. 49:950 et seq.

On August 26, 2005, Governor Kathleen Babineaux Blanco declared a State of Emergency within the state of Louisiana in response to the expected landfall of Hurricane Katrina. As a result of the hurricane's landfall, Hurricane

Katrina caused extensive power outages and massive flooding that destroyed many homes and impacted the livelihood of the citizens of Louisiana.

Because of the catastrophic and devastating effects of the hurricane, the Louisiana Department of Insurance (LDOI) is issuing Emergency Rule 16 in regards to the settlement and business practices of insurance adjusters in the state of Louisiana. In an effort to protect the public interest and welfare of citizens of this state, all public adjusters operating in this state are to register with the LDOI.

Any and all persons having questions or the need for any additional information should contact the Louisiana Department of Insurance at (225) 342-5900 or (800) 259-5300.

Title 37
INSURANCE
Part XI. Rules
Chapter 29. Registration of Public Insurance Adjusters Actively Engaged in the Settlement of Claims and Damages Resulting from Hurricane Katrina

§2901. Application

A. Emergency Rule 16 is applicable to all public adjusters, as defined in R.S. 22:1476(A).

AUTHORITY NOTE: Promulgated in accordance with Executive Order KBB 05-48, R.S. 29:724, R.S. 29:766, R.S. 22:2, R.S. 22:3, R.S. 22:1214.(7), (12) and (14), R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

§2903. Electronic Registration

A. All public adjusters shall register with the LDOI pursuant to an electronic registration form that has been developed and is available by using the direct link set forth herein below. The form is also on the LDOI's Web site and may be printed, if necessary. Persons may fax a completed form to the LDOI at (225) 219-9322 or they may walk in and complete the form here at the LDOI. No notice will be sent out advising that the registration has been received, as that information can be accessed using the company search option on the LDOI's Web site at www.ldi.state.la.us.

AUTHORITY NOTE: Promulgated in accordance with Executive Order KBB 05-48, R.S. 29:724, R.S. 29:766, R.S. 22:2, R.S. 22:3, R.S. 22:1214.(7), (12) and (14), R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

§2905. Claim Adjustor

A. In the settlement of claims for losses and damages, public adjusters shall comply with the following prohibitions.

1. Any contracts or arrangements made between insured persons and public adjusters are against public policy and are null and void if the adjuster's fee is contingent upon or calculated as a percentage of the amount of any claims paid to or paid on behalf of the insured persons, in compliance with the requirements of R.S. 22:1476.B.

2. Insurance companies shall not pay affiliated adjusters any fee or compensation in excess of a regular fixed salary or stipend. An insurer cannot contract to pay an adjuster a percentage of costs saved to the insurer through efforts of the adjuster, as per the requirements of R.S. 22:1453.A.

B. All insurance companies shall provide to the LDOI, in writing, the names and social security numbers of those adjusters who will be actively engaged in the settlement of losses and damages resulting from this catastrophe.

C. In compliance with the requirements of R.S. 22:1220, all public adjusters, as well as all insurance companies, owe a duty of good faith and fair dealing to insured persons in the state of Louisiana. Therefore, failure to comply with Emergency Rule 16 will be considered a violation of the Louisiana Insurance Code and administrative action will be taken by the LDOI and/or any appropriate law enforcement agency.

AUTHORITY NOTE: Promulgated in accordance with Executive Order KBB 05-48, R.S. 29:724, R.S. 29:766, R.S. 22:2, R.S. 22:3, R.S. 22:1214.(7), (12) and (14), R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

§2907. General Provisions

A. Every insurer shall distribute copies of Emergency Rule 16 to every person or entity directly responsible for the handling and settlement of claims in conjunction herewith.

B. The provisions of Emergency Rule 16 shall be liberally construed to effectuate the intent and purposes expressed herein and to afford maximum consumer protection for the insureds of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with Executive Order KBB 05-48, R.S. 29:724, R.S. 29:766, R.S. 22:2, R.S. 22:3, R.S. 22:1214.(7), (12) and (14), R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

§2909. Rule Amendment

A. The commissioner reserves the right to amend, modify, alter or rescind all or any portions of Emergency Rule 16.

AUTHORITY NOTE: Promulgated in accordance with Executive Order KBB 05-48, R.S. 29:724, R.S. 29:766, R.S. 22:2, R.S. 22:3, R.S. 22:1214.(7), (12) and (14), R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

§2911. Severablility Clause

A. If any section or provision of Emergency Rule 16 that is held invalid, such invalidity or determination shall not affect other sections or provisions, or the application of Emergency Rule 16, to any persons or circumstances that can be given effect without the invalid sections or provisions and the application to any person or circumstance shall be severable.

AUTHORITY NOTE: Promulgated in accordance with Executive Order KBB 05-48, R.S. 29:724, R.S. 29:766, R.S. 22:2, R.S. 22:3, R.S. 22:1214.(7), (12) and (14), R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

§2913. Effective Date

A. Emergency Rule 16 shall become effective at 12:01 a.m. on August 26, 2005 and shall continue in full force and effect for the duration of the present State of Emergency proclaimed by Governor Kathleen Babineaux Blanco, or any subsequent State of Emergency proclamation made thereafter by the Governor with regard to Hurricane Katrina or its aftermath.

AUTHORITY NOTE: Promulgated in accordance with Executive Order KBB 05-48, R.S. 29:724, R.S. 29:766, R.S. 22:2, R.S. 22:3, R.S. 22:1214.(7), (12) and (14), R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

J. Robert Wooley
Commissioner

0510#010

DECLARATION OF EMERGENCY

Department of Insurance
Office of the Commissioner

Rule 17CSuspension of Certain Statutes and Regulations Regarding Health Insurance and Related Provisions Regarding Any and All Health Insurance Matters Affecting Insureds in Louisiana Caused by Hurricane Katrina
(LAC 37:XI.Chapter 31)

Emergency Rule 17 is issued pursuant to the plenary authority of the Commissioner of Insurance for the state of Louisiana, including, but not limited to, the following: Proclamation No. 48 KBB 2005 issued on August 26, 2005 by Governor Kathleen Babineaux Blanco declaring a State of Emergency; Executive Order No. KBB 2005 - 40 issued September 19, 2005 by Governor Kathleen Babineaux Blanco transferring authority over any and all insurance matters to Commissioner of Insurance J. Robert Wooley (commissioner); R.S. 29:724; R.S. 29:766; R.S. 22:2; R.S. 22:3; R.S. 22:1214.(7), (12) and (14); R.S. 49:950 et seq.

On August 26, 2005, Governor Kathleen Babineaux Blanco declared a State of Emergency within the state of Louisiana in response to the expected landfall of Hurricane Katrina. As a result of the hurricane's landfall, Hurricane Katrina caused extensive power outages and massive flooding that destroyed many homes and impacted the livelihood of the citizens of Louisiana.

Thousands of Louisiana citizens have suffered damages due to Hurricane Katrina. In some places, it could be months before electricity is restored. The homes of many Louisiana citizens were destroyed precluding habitation and the delivery of mail. This disruption has affected the ability of these citizens to pay their insurance premiums, access their insurance policies, and communicate with insurance agents and their respective insurance companies for insurance-related matters. Hurricane Katrina has created a mass disruption to the normalcy previously enjoyed by Louisianians and produced an immediate threat to the public health, safety, and welfare of Louisiana citizens.

The Commissioner will be hindered in the proper performance of his duties and responsibilities regarding this State of Emergency without the authority to suspend certain statutes in the Louisiana Insurance Code and the rules and regulations that implement the Louisiana Insurance Code including, but not limited to, cancellation, nonrenewal, reinstatement, premium payment and claim filings with regard to any and all types of health insurance subject to the Louisiana Insurance Code.

In light of this, I hereby issue Emergency Rule 17 to any and all health insurance issuers, Health Maintenance Organizations (hereinafter HMOs), Preferred Provider Organizations (hereinafter PPOs), Managed Care Organizations (hereinafter MCOs), Third Party Administrators (TPAs) and any other health insurance entities doing business in Louisiana and/or regulated by the Commissioner pursuant to the Louisiana Insurance Code regarding any and all types of health insurance, including, but not limited to, group and individual health and accident insurance, limited benefit insurance, Medicare supplement insurance, Medicare select insurance, HMOs, PPOs, MCOs, excess loss insurance, stop loss insurance, disability income insurance, short-term health insurance, long-term care insurance, and any and all other types of health insurance regulated by the Louisiana Insurance Code.

Emergency Rule 17 is applicable to insureds, as defined in §3101, from the following seven primary parishes: Jefferson, Orleans, Plaquemines, St. Bernard, St. Tammany, Tangipahoa, and Washington. Emergency Rule 17 is also applicable to insureds, as defined in §3101, from the following seven secondary parishes: Lafourche, Livingston, St. Charles, St. James, St. John the Baptist, St. Mary and Terrebonne. The zip codes applicable to these seven primary parishes include, but may not be limited to, the list identified as "Hurricane Katrina Seven Primary Parish Zip Code List" found on the official Louisiana Department of Insurance Web site at www.ldi.state.la.us. The zip codes applicable to the seven secondary parishes include, but may not be limited to, the list identified as "Hurricane Katrina Seven Secondary Parish Zip Code List" found on the official Louisiana Department of Insurance Web site at www.ldi.state.la.us. Insureds shall include, but not be limited to, any and all policyholders, members, subscribers and certificate holders.

In the ordinary course of business, health insurance issuers, HMOs, PPOs, MCOs, TPAs and any and all other health insurance entities doing business in Louisiana and/or regulated by the commissioner pursuant to the Louisiana Insurance Code regarding any and all types of health insurance, including, but not limited to, group and individual health and accident insurance, limited benefit insurance, Medicare supplement insurance, Medicare select insurance, HMOs, PPOs, MCOs, excess loss insurance, stop loss insurance, disability insurance, short-term care insurance, long-term care insurance and any and all other health insurance regulated by the Louisiana Insurance Code, are subject to certain requirements with regard to health insurance matters affecting insured citizens in Louisiana. Hurricane Katrina has produced a disruption in the health insurance industry. Thus, many of the insureds in the seven parishes referenced above are currently unable to timely act or respond to their health insurance needs. Additionally, some insureds with policies in force on August 26, 2005, who wish to make timely premium payments, are also prevented from making such payment because of the aforementioned circumstances. This could result in an insured being without coverage and/or potentially uninsured. Emergency Rule 17 provides emergency relief to the insureds of Louisiana affected by Hurricane Katrina and its aftermath so that these insureds will be insured and their coverage will continue under those policies that were in effect as of 12:01 a.m. on August 26, 2005.

Title 37
INSURANCE
Part XI. Rules

Chapter 31. Rule 17CSuspension of Certain Statutes and Regulations Regarding Health Insurance and Related Provisions Regarding Any and All Health Insurance Matters Affecting Insureds in Louisiana Caused by Hurricane Katrina

§3101. Benefits, Entitlements, and Protection

A. The benefits, entitlements and protections of Emergency Rule 17 shall be applicable to insureds who, as of 12:01 a.m. on August 26, 2005 had a policy or contract for any of the types of insurance enumerated in §3101.B, and meet one of the following criteria.

1. Any person who, as of August 26, 2005, resided in one of the following seven primary parishes: Jefferson, Orleans, Plaquemines, St. Bernard, St. Tammany, Tangipahoa and Washington. The zip code for these seven primary parishes is on the list identified as "Hurricane Katrina Seven Primary Parish Zip Code List" found on the official Louisiana Department of Insurance Web site at www.ldi.state.la.us.

2. Any person whose primary place of employment was in, or whose permanent employer had assigned said person to a business located in, one of the seven primary parishes enumerated in §3101.A1. shall be eligible to be defined as an insured if said person verifies such employment status by written documentation to his insurer. No insurer shall unreasonably withhold eligibility to an insured upon receipt of such written documentation.

3. Any person who, as of August 26, 2005, resided in one of the following seven secondary parishes: Lafourche, Livingston, St. Charles, St. James, St. John the Baptist, St. Mary and Terrebonne. However any such person shall only be eligible to be defined as an insured if said person obtains written documentation from either the chief executive officer of the applicable parish of the person or the United States Postal Service that said person incurred an interruption of mail service after August 26, 2005. The zip code for these seven secondary parishes is on the list identified as "Hurricane Katrina Seven Secondary Parish Zip Code List" found on the official Louisiana Department of Insurance internet Web site at www.ldi.state.la.us.

4. Nothing in Emergency Rule 17 shall preclude an insurer from voluntarily applying the provisions of Emergency Rule 17 relating to cancellation, nonrenewal and nonreinstatement to any other person who is an insured and who resides in any parish other than the parishes set forth in §3101.A.1 or 3.

B. Emergency Rule 17 shall apply to any and all types of health insurance, including, but not limited to, group and individual health and accident insurance, limited benefit insurance, Medicare supplement insurance, Medicare select insurance, HMOs, PPOs, MCOs, excess loss insurance, stop loss insurance, disability income insurance, short-term health insurance, long-term care insurance and any and all other health insurance.

AUTHORITY NOTE: Promulgated in accordance with Executive Order KBB 05-48, R.S. 29:724, R.S. 29:766, R.S. 22:2, R.S. 22:3, R.S. 22:1214.(7), (12) and (14), R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

§3103. Out of Network Access

A. All health insurance issuers and HMOs with insureds in the parishes enumerated in §3101 shall waive any and all restrictions relative to out-of-network access to health care services. This shall include, but not be limited to, HMOs, PPOs and MCOs. To avoid delays in accessing care, all health insurance issuers, HMOs, PPOs and MCOs shall waive requirements for medical certifications or pre-certifications, referrals, medical necessity reviews and notification of hospital admissions. The right of health insurance issuers, HMOs, PPOs and MCOs to conduct retrospective medical necessity reviews and retrospectively deny any and all claims is hereby suspended for non-elective health care services. Additionally, the right of health insurance issuers, HMOs, PPOs and MCOs to recoup or offset with regard to any and all claims for non-elective health care services is hereby suspended. Non-elective health care services are those that are urgent, emergent, or necessary in order to not place the health of the insured at risk. Any and all claims subject to §3103 shall not be applicable to elective health care services, cosmetic health care services or non-covered services.

AUTHORITY NOTE: Promulgated in accordance with Executive Order KBB 05-48, R.S. 29:724, R.S. 29:766, R.S. 22:2, R.S. 22:3, R.S. 22:1214.(7), (12) and (14), R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

§3105. Paying Claims

A. When the health insurance issuer, HMO, PPO or MCO receives the premium due, the health insurance issuer, HMO, PPO and MCO shall be obligated to pay a claim at either billed charges, or the higher of the non-participating rate/allowance or the contracted reimbursement rate. Once the health insurance issuer or HMO selects one of the options above, the health insurance issuer or HMO shall reimburse said claim at the highest benefit level in the policy or the highest percentage in the policy. The purpose and intent is to minimize the insured's out-of-pocket expense. The insured shall be held harmless and indemnified by the health insurance issuers, HMOs, PPOs and MCOs for any out of pocket expense, except for any applicable co-payments, deductibles or co-insurance. All health care professionals and health care providers rendering services to an insured from the parishes enumerated in §3101 shall comply with the Health Care Consumer Billing and Protection Act pursuant to R.S. 22:250.41 et seq. Nothing in §3105 shall be construed to require health insurance issuers, HMOs, PPOs or MCOs to pay a claim submitted by a participating health care provider or health care professional at a rate or allowance that is higher than the applicable contracted reimbursement rate or allowance.

AUTHORITY NOTE: Promulgated in accordance with Executive Order KBB 05-48, R.S. 29:724, R.S. 29:766, R.S. 22:2, R.S. 22:3, R.S. 22:1214.(7), (12) and (14), R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

§3107. Statute Compliance

A. All health insurance issuers and HMOs shall maintain compliance with R.S. 22:250.1 et seq., titled Assuring Portability, Availability and Renewability of Health Insurance Coverage, and any applicable federal law.

AUTHORITY NOTE: Promulgated in accordance with Executive Order KBB 05-48, R.S. 29:724, R.S. 29:766, R.S. 22:2, R.S. 22:3, R.S. 22:1214.(7), (12) and (14), R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

§3109. Cancellation, Nonrenewal, and Nonreinstatement

A. All cancellation, termination, nonrenewal and nonreinstatment provisions, including, but not limited to, R.S. 22:250.7, 22:250.13, 22:215.9, 22:636.F and 22:2027 are hereby suspended. Additionally, all provisions of Emergency Rule 15 relating to notice of cancellation, termination, nonrenewal and nonreinstatement are incorporated herein by reference as if set forth herein *in extenso.*

AUTHORITY NOTE: Promulgated in accordance with Executive Order KBB 05-48, R.S. 29:724, R.S. 29:766, R.S. 22:2, R.S. 22:3, R.S. 22:1214.(7), (12) and (14), R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

§3111. Renewal

A. Any and all types of health insurance, including, but not limited to, group and individual health and accident insurance, limited benefit insurance, Medicare supplement insurance, Medicare select insurance, HMOs, excess loss insurance, stop loss insurance, disability income insurance, short-term health insurance, long-term care insurance and any and all other health insurance regulated by the Louisiana Insurance Code that are subject to renewal between August 26, 2005 and January 1, 2006 are suspended and shall be renewed effective January 1, 2006, and any rate increases that were to take effect between August 26, 2005 and January 1, 2006 are suspended and shall be deferred until January 1, 2006. All types of health insurance, including, but not limited to, group and individual health and accident insurance, limited benefit insurance, Medicare supplement insurance, Medicare select insurance, HMOs, excess loss insurance, stop loss insurance, disability income insurance, short-term health insurance, long-term care insurance and any and all other health insurance regulated by the Louisiana Insurance Code in effect at 12:01 a.m. on August 26, 2005 shall continue in full force and effect until January 1, 2006 at the previously established premium.

AUTHORITY NOTE: Promulgated in accordance with Executive Order KBB 05-48, R.S. 29:724, R.S. 29:766, R.S. 22:2, R.S. 22:3, R.S. 22:1214.(7), (12) and (14), R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

§3113. Claims Notification

A. All claims notification procedures, including, but not limited to, R.S. 22:213.A.(3) through (5), Regulation 33, Regulation 74 and Regulation 77, are suspended.

AUTHORITY NOTE: Promulgated in accordance with Executive Order KBB 05-48, R.S. 29:724, R.S. 29:766, R.S. 22:2, R.S. 22:3, R.S. 22:1214.(7), (12) and (14), R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

§3115. Timely Payment

A. All laws relating to timely payment are suspended and, in furtherance thereof, the following rules shall apply to timely payment.

1. Medical Care or Services R.S. 22:250.32 through 34 and Regulation 74 (Sections 6007 through 6011)

a. The commissioner hereby suspends the 45 day time limit for payment of claims for non-electronic claims submission until further notice. (See R.S. 22:250.32 and the penalty provisions of R.S. 22:250.32.C.)

b. The commissioner hereby suspends the 25 day time limit for payment of claims for electronic claims submission until further notice. (See R.S. 22:250.33 and the penalty provisions of R.S. 22:250.33.C.)

c. The commissioner hereby suspends the 30 day time limit for payment of claims for insurers who have elected to utilize a 30 day payment standard for compliance until further notice. (See R.S. 22:250.34 and the penalty provisions of R.S. 22:250.32C and 22:250.33.C.)

d. Once a health insurance issuer receives the premium payment from the insured, all pending claims shall be processed and adjudicated. The health insurance issuer shall notify the health care provider that the claim is no longer pending and is being processed and adjudicated for payment. Furthermore, the suspension of the time limit for the payment of electronic and non-electronic claims will remain in effect until the present State of Emergency, or any subsequent State of Emergency, related to Hurricane Katrina or its aftermath has been lifted by Governor Kathleen Babineaux Blanco.

i. Accordingly, pursuant to R.S. 22:250.32, the 45 day time limit for payment for non-electronic claims and the penalty provisions of R.S. 22:250.32.C shall be reinstated upon the payment of the premium by the insured.

ii. Accordingly, pursuant to R.S. 22:250.33, the 25 day time limit for payment of claims for electronic claims and the penalty provisions R.S. 22:250.33.C shall be reinstated upon the payment of the premium by the insured.

iii. Accordingly, pursuant to R.S. 22:250.34, the 30 day time limit for payment for non-electronic claims and the penalty provisions of R.S. 22:250.32.C and 22:250.33.C shall be reinstated upon the payment of the premium by the insured.

2. Pharmacy Care or ServicesCR.S. 22:250:53 through 57.

a. The commissioner hereby suspends the 45 day time limit for payment of pharmaceutical claims for non-electronic claims submission until further notice. See R.S. 22:250.53 and the penalty provisions of R.S. 22:250.53.C.

b. The commissioner hereby suspends the 15 day time limit for payment of pharmaceutical claims for electronic claims submission until further notice. Furthermore, this suspension is applicable to Act 209 of the 2005 Regular Legislative Session. See R.S. 22:250.54 and the penalty provisions of R.S. 22:250.54.C.

c. The commissioner hereby suspends the 30 day time limit for payment of pharmaceutical claims for insurers who have elected to utilize a 30 day payment standard for compliance until further notice. See R.S. 22:250.56 and the penalty provisions of R.S. 22:250.53.C and 22:250.54.C.

d. Once a health insurance issuer receives the premium payment from the insured, all pending pharmacy claims shall be processed and adjudicated. The health insurance issuer shall notify the health care provider that the claim is no longer pending and is being processed and adjudicated for payment. Furthermore, the suspension of the time limit for the payment of electronic and non-electronic claims will automatically be lifted and reinstated.

i. Accordingly, pursuant to R.S. 22:250.53, the 45 day time limit for payment for non-electronic claims and the penalty provisions of R.S. 22:250.53.C shall be reinstated upon the payment of the premium by the insured.

ii. Accordingly, pursuant to R.S. 22:250.54, the 25 day time limit for payment of claims for electronic claims and the penalty provisions R.S. 22:250.54.C shall be reinstated upon the payment of the premium by the insured.

iii. Accordingly, pursuant to R.S. 22:250.56, the 30 day time limit for payment for non-electronic claims and the penalty provisions of R.S. 22:250.53.C and 22:250.54.C shall be reinstated upon the payment of the premium by the insured.

e. The commissioner hereby suspends the right of health insurance issuers and HMOs from denying, pending or rejecting a claim from any pharmacists or pharmacy for a 30 day supply of prescription medications, regardless of the date of the last refill. In furtherance of this suspension, health insurance issuers and HMOs shall pay all such claims for reimbursement submitted by a pharmacist or pharmacy.

f. The commissioner hereby suspends any and all precertification or step-therapy procedures in order to fill a prescription. This authorization shall be for a 30 day supply.

g. The commissioner hereby suspends any provisions in the Louisiana Insurance Code which place restrictions on replacement prescriptions pertaining to mail order prescriptions. Mail order prescriptions should be mailed to an alternate address if requested by the insured.

h. All health insurance issuers, HMOs, PPOs and MCOs shall waive any and all restrictions relative to out-of-network access to pharmacy services or prescriptions.

AUTHORITY NOTE: Promulgated in accordance with Executive Order KBB 05-48, R.S. 29:724, R.S. 29:766, R.S. 22:2, R.S. 22:3, R.S. 22:1214.(7), (12) and (14), R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

§3117. Paying Claims

A. In the event health insurance issuers, HMOs, PPOs and MCOs pend a claim(s), as allowed pursuant Emergency Rule 17, and is subsequently entitled to cancel or terminate a policy for non-payment of premium, health insurance issuers, HMOs, PPOs and MCOs shall pay those claims to the health care providers or health care professionals at the following rate or allowance:

1. for contracted health care providers or health care professionals, 50 percent of the contracted reimbursement rate;

2. for non-contracted health care providers or health care professionals, 50 percent of the non-participating rate or allowance;

3. with regard to claims submitted pursuant to this Section, when the underlying policy is cancelled or terminated for non-payment of premium, health insurance issuers, HMOs, PPOs and MCOs shall be allowed to conduct medical necessity reviews on claims related to non-elective services. Non-elective services are those services that are emergent, urgent, or necessary in order to not place the health of the insured at risk;

4. with regard to any and all claims paid by health insurance issuers, HMOs, PPOs and MCOs pursuant to the requirements of this Section, the provisions of LSA R.S. 22:250.38 and 22:250.59 are hereby suspended and recoupment is prohibited.

AUTHORITY NOTE: Promulgated in accordance with Executive Order KBB 05-48, R.S. 29:724, R.S. 29:766, R.S. 22:2, R.S. 22:3, R.S. 22:1214.(7), (12) and (14), R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

§3119. Physician Credentialing

A. The commissioner hereby suspends physician credentialing pursuant to R.S. 22:11.1 such that there are no credentialing requirements with regard to any and all licensed physicians who provide medical services to insureds from the parishes referenced in §3101.

AUTHORITY NOTE: Promulgated in accordance with Executive Order KBB 05-48, R.S. 29:724, R.S. 29:766, R.S. 22:2, R.S. 22:3, R.S. 22:1214.(7), (12) and (14), R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

§3121. Medicare Supplement Premiums

A. Payment of Medicare Supplement PremiumsCR.S. 22:224.K

1. The commissioner hereby suspends the requirements that the payment of Medicare supplement premiums can only be made pursuant to R.S. 22:224.K.

2. In furtherance of this suspension, any policies that contain restrictive language relative to modes of premium payment shall allow for the acceptance of other payment methods during this State of Emergency or any subsequent State of Emergency including, but not be limited to, credit card, debit card, FEMA voucher, federal assistance, state assistance, or any and all other related or similar payment methods.

AUTHORITY NOTE: Promulgated in accordance with Executive Order KBB 05-48, R.S. 29:724, R.S. 29:766, R.S. 22:2, R.S. 22:3, R.S. 22:1214.(7), (12) and (14), R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

§3123. Suspension of Cancellation

A. The commissioner hereby suspends any and all cancellations occasioned by the inability of an insured, or his representative, from complying with any policy provisions. In furtherance of this suspension, a cancellation or nonrenewal shall not occur prior to the expiration of the State of Emergency or any subsequent State of Emergency related to Hurricane Katrina, unless upon the documented written request or written concurrence of the insured.

AUTHORITY NOTE: Promulgated in accordance with Executive Order KBB 05-48, R.S. 29:724, R.S. 29:766, R.S. 22:2, R.S. 22:3, R.S. 22:1214.(7), (12) and (14), R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

§3125. Claim Caused by Hurricane Katrina

A. Emergency Rule 17 shall not relieve an insured who has a claim caused by Hurricane Katrina, or its aftermath, from compliance with the insured's obligation to provide information and cooperate in the claim adjustment process relative to such claim.

AUTHORITY NOTE: Promulgated in accordance with Executive Order KBB 05-48, R.S. 29:724, R.S. 29:766, R.S. 22:2, R.S. 22:3, R.S. 22:1214.(7), (12) and (14), R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

§3127. Imposition of Interest, Penalty, or Other Charge

A. The commissioner hereby suspends the imposition of any interest, penalty or other charge and declares that no interest, penalty or other charge shall accrue or be assessed

against any insured as the result of the suspensions ordered herein.

AUTHORITY NOTE: Promulgated in accordance with Executive Order KBB 05-48, R.S. 29:724, R.S. 29:766, R.S. 22:2, R.S. 22:3, R.S. 22:1214.(7), (12) and (14), R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

§3129. Continuation of Coverage

A. The commissioner hereby suspends R.S. 22:215.13. In furtherance thereof, a health insurance issuer who has issued a group health insurance policy shall provide to all members or certificate holders under said group policy the option for the continuation of coverage, which said option shall begin on the day after the Governor lifts the State of Emergency presently in effect, or any renewal thereof. This Section is only applicable in those situations where the employer to whom the group policy had been issued remains in business and continues to offer said group health insurance to active employees at any time between August 26, 2005 and the lifting of the State of Emergency by the Governor.

AUTHORITY NOTE: Promulgated in accordance with Executive Order KBB 05-48, R.S. 29:724, R.S. 29:766, R.S. 22:2, R.S. 22:3, R.S. 22:1214.(7), (12) and (14), R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

§3131. Exemption from Compliance

A. Notwithstanding any other provision contained herein, the commissioner may exempt any insurer from compliance with Emergency Rule 17 upon written request by the health insurance issuer if the commissioner determines that compliance with Emergency Rule 17 may be reasonably expected to result in said insurer being subject to undue hardship, impairment or insolvency.

AUTHORITY NOTE: Promulgated in accordance with Executive Order KBB 05-48, R.S. 29:724, R.S. 29:766, R.S. 22:2, R.S. 22:3, R.S. 22:1214.(7), (12) and (14), R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

§3133. New Policies

A. The provisions of Emergency Rule 17 shall not apply to any new policies of insurance for the types of health insurance enumerated in Emergency Rule 17 if said new health insurance policy was issued on or after 12:01 a.m. August 26, 2005.

AUTHORITY NOTE: Promulgated in accordance with Executive Order KBB 05-48, R.S. 29:724, R.S. 29:766, R.S. 22:2, R.S. 22:3, R.S. 22:1214.(7), (12) and (14), R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

§3135. Canceling or Terminating an Insured

A. The provisions of Emergency Rule 17 shall not prevent health insurance issuers or HMOs from cancelling or terminating an insured based solely on fraud or material misrepresentation on the part of the insured.

AUTHORITY NOTE: Promulgated in accordance with Executive Order KBB 05-48, R.S. 29:724, R.S. 29:766, R.S. 22:2, R.S. 22:3, R.S. 22:1214.(7), (12) and (14), R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

§3137. Purpose

A. The provisions of Emergency Rule 17 shall be liberally construed to effectuate the intent and purpose expressed herein and to afford maximum consumer protection for the insureds of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with Executive Order KBB 05-48, R.S. 29:724, R.S. 29:766, R.S. 22:2, R.S. 22:3, R.S. 22:1214.(7), (12) and (14), R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

§3139. Enforcement and Penalties

A. The commissioner retains the sole authority to enforce violations of Emergency Rule 17. Accordingly, any insurer, HMOs, PPOs and MCOs, or other entity doing business in Louisiana and/or regulated by the commissioner who violates any provision of Emergency Rule 17 shall be subject to prosecution by the commissioner under any applicable provisions of the Louisiana Insurance Code, including the provisions of the R.S. 22:250.41, et seq., 22:1211, et seq., and specifically including, but not limited to, R.S. 22:1214(7), (12) and (14). Additionally, the penalty provisions set forth in R.S. 22:1217 shall be applicable. These provisions include penalties of $1,000 for each separate act, or $25,000 for each separate act if the violator knew or reasonably should have known he was in violation of Emergency Rule 17, as well as a cease and desist order and the imposition of other penalties and suspension or revocation of the license. Additionally, R.S. 22:1220, which, among other things, imposes the obligation of good faith and fair dealing shall also be subject to the sole enforcement authority of the commissioner. This law sets forth penalties and exemplary damages which shall be enforceable by the commissioner for any violation of Emergency Rule 17. Finally, the commissioner reserves the sole right to make the determination regarding whether any violator shall be subject to any and all other applicable civil and criminal sanctions for violations of Emergency Rule 17.

AUTHORITY NOTE: Promulgated in accordance with Executive Order KBB 05-48, R.S. 29:724, R.S. 29:766, R.S. 22:2, R.S. 22:3, R.S. 22:1214.(7), (12) and (14), R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

§3141. Rule Amendment

A. The commissioner reserves the right to amend, modify, alter or rescind all or any portion of Emergency Rule 17.

AUTHORITY NOTE: Promulgated in accordance with Executive Order KBB 05-48, R.S. 29:724, R.S. 29:766, R.S. 22:2, R.S. 22:3, R.S. 22:1214.(7), (12) and (14), R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

§3143. Severability Clause

A. If any section or provision of Emergency Rule that is held invalid, such invalidity or determination shall not affect other sections or provisions, or the application of Emergency Rule 17, to any persons or circumstances that can be given effect without the invalid sections or provisions and the application to any person or circumstance shall be severable.

AUTHORITY NOTE: Promulgated in accordance with Executive Order KBB 05-48, R.S. 29:724, R.S. 29:766, R.S. 22:2, R.S. 22:3, R.S. 22:1214.(7), (12) and (14), R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

§3145. Effective Date

A. Emergency Rule 17 shall become effective at 12:01 a.m. on August 26, 2005 and shall continue in full force and effect for the duration of the present State of Emergency proclaimed by Governor Kathleen Babineaux Blanco, or any

subsequent State of Emergency, with regard to Hurricane Katrina or its aftermath.

AUTHORITY NOTE: Promulgated in accordance with Executive Order KBB 05-48, R.S. 29:724, R.S. 29:766, R.S. 22:2, R.S. 22:3, R.S. 22:1214.(7), (12) and (14), R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

J. Robert Wooley
Commissioner

0510#011

DECLARATION OF EMERGENCY

Department of Insurance
Office of the Commissioner

Rule 18CSuspension of Continuing Education Requirements for Life, Health and Accident Producers Licensed in the State of Louisiana
(LAC 37:XI.Chapter 33)

Emergency Rule 18 is issued pursuant to the plenary authority of the Commissioner of Insurance for the State of Louisiana, including, but not limited to, the following: Proclamation No. 48 KBB 2005 issued on August 26, 2005 by Governor Kathleen Babineaux Blanco declaring a State of Emergency in response to Hurricane Katrina; Proclamation No. 53 KBB 2005 issued on September 20, 2005 by Governor Kathleen Babineaux Blanco declaring a State of Emergency in response to Hurricane Rita; Proclamation No. 54 KBB 2005 issued September 22, 2005 issued by Governor Kathleen Babineaux Blanco extending the State of Emergency issued in conjunction with Hurricane Katrina; Executive Order KBB 05-40 issued September 18, 2005 by Governor Kathleen Babineaux Blanco transferring authority over any and all insurance matters to Commissioner of Insurance J. Robert Wooley; R.S. 29:724; R.S. 29:766; R.S. 22:2; R.S. 22:3; R.S. 22:1214(7), (12) and (14); R.S. 49:950 et seq.

On August 29, 2005 and September 24, 2005, the state of Louisiana experienced catastrophic loss of life and property due to hurricanes Katrina and Rita. As a result, many citizens of Louisiana have been displaced from their homes and employment without knowing when or how their lives will return to a state of normalcy. Among these displaced persons are several thousand producers who have been licensed by the Louisiana Department of Insurance to market insurance products to consumers in this state.

Moreover, in acknowledging that many of the convention centers and hotels around the state of Louisiana have become temporary homes for the thousands of displaced citizens, the Louisiana Department of Insurance is aware that it may be overly burdensome on licensed producers to meet their respective continuing education requirements prior to the May 1, 2006 producer license renewal period. Therefore, I hereby issue Emergency Rule 18 to all Life, Health and Accident producers who are currently licensed in the state of Louisiana. As Commissioner of Insurance, I, pursuant to the aforementioned Executive Order issued by Governor Blanco, as well as R.S. 22:1193(B), am suspending the continuing education requirements for all licensed Life, Health and Accident producers.

If you have any questions or need any additional information, please contact the Louisiana Department of Insurance at (225) 342-5900 or (800) 259-5300. Please be governed accordingly.

Title 37
INSURANCE
Part XI. Rules

Rule 18CSuspension of Continuing Education Requirements for Life, Health and Accident Producers Licensed in the State of Louisiana

§3301. Continuing Education Requirement

A. The continuing education requirements for all Louisiana resident Life, Health and Accident producers will be suspended for those persons whose licenses will expire as of April 30, 2006.

B. For property and casualty insurance producers whose licenses were renewed in April of 2005, the continuing education requirements will not be suspended. As such, all continuing education requirements must be met to ensure the renewal of a producer's license in April 2007.

AUTHORITY NOTE: Promulgated in accordance with Executive Order KBB 05-48, R.S. 29:724, R.S. 29:766, R.S. 22:2, R.S. 22:3, R.S. 22:1214.(7), (12) and (14), R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

§3303. Reinstating Licenses

A. Producers who have allowed their licenses to lapse and wish to reinstate their licenses within five years of the license expiration date are still required to meet all requirements outlined in R.S. 22:1137(D).

AUTHORITY NOTE: Promulgated in accordance with Executive Order KBB 05-48, R.S. 29:724, R.S. 29:766, R.S. 22:2, R.S. 22:3, R.S. 22:1214.(7), (12) and (14), R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

§3305. Continuing Education Waivers

A. Producers who seek a wavier for continuing education requirements because they are:

1. in the military; or
2. age 65 or older; or
3. members of the legislature are required to comply with the provisions set forth in all parts of R.S. 22:1193(I).

AUTHORITY NOTE: Promulgated in accordance with Executive Order KBB 05-48, R.S. 29:724, R.S. 29:766, R.S. 22:2, R.S. 22:3, R.S. 22:1214.(7), (12) and (14), R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:

J. Robert Wooley
Commissioner

0510#031

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections
Gaming Control Board

Requirements for Licensing, Surrender of License
(LAC 42:XI.2405)

In accordance with the Administrative Procedure Act, R.S. 49:953(B), and R.S.27:15 and 24, the Gaming Control Board finds that this emergency amendment to the Rules regulating licensed video draw poker establishments is necessary to prevent imminent peril to the public health, safety and welfare.

Hurricane Katrina caused catastrophic damage to areas of the state, and specifically to numerous licensed video draw poker establishments in Orleans, Jefferson, St. Bernard, Plaquemines, and other parishes. LAC 42:XI.2405.B.9 requires that establishments where the business or video poker devices are not in operation for a period of 30 days shall surrender the license to the board or division. It is anticipated that many establishments in the affected parishes will be out of operation in excess of 30 days.

It is necessary therefore that this amendment be adopted on an emergency basis in order to maintain effective regulation of the gaming industry and the establishments affected by this natural disaster.

This Rule change is hereby adopted, effective September 13, 2005, and shall remain in effect for 120 days.

Title 42
LOUISIANA GAMING
Part XI. Video Poker
Chapter 24. Video Draw Poker
§2405. Application and License

A. - A.15. …

B. Requirements for Licensing

1. - 9.e. …

f. The provisions of this Paragraph shall not apply to those licensed video draw poker establishments in parishes including but not limited to Orleans, Jefferson, St. Bernard, and Plaquemines Parish whose business or video poker devices are not in operation for a period in excess of 30 days, when such cessation of operation has been caused by Hurricane Katrina and its aftermath. In the event that an affected establishment has ceased business operations, no gaming activities may be conducted at such establishment until the business has resumed operations.

C. - D.7. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:196 (February 1992), amended LR 21:582 (June 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 23:1322 (October 1997), LR 24:955 (May 1998), LR 26:346 (February 2000), LR 26:2322 (October 2000), LR 27:61 (January 2001), LR 29:362 (March 2003), LR 30:267 (February 2004), repromulgated LR 30:439 (March 2004), amended LR 32:

H. Charles Gaudin
Chairman

0510#001

DECLARATION OF EMERGENCY

Department of Revenue
Policy Services Division

Nonresident Contractors
(LAC 61:I.4373)

The Department of Revenue, Policy Services Division, is exercising the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), to provide with the value of the surety bonds that nonresident contractors are required to furnish to the secretary of revenue guaranteeing their payment of the state and local taxes that become due as the result of their construction activity in the state. R.S. 47:306(D) provides that nonresident contractors shall "file with the department a surety bond or a blanket surety bond for all contracts, sufficient to cover all taxes due on the contract or contracts, in accordance with the provisions of R.S. 47:9(B)(1)." R.S. 47:9(B)(1) provides similarly that nonresident contractors "shall execute and file with the secretary of the Department of Revenue a good and valid bond in a surety company authorized to business in this state … conditioned that all taxes … will be paid when due …"

The current Rule provides that the bond shall be for an amount equal to 5 percent of the total contract price, or $1,000, whichever is greater, for each contract. This Emergency Rule is being adopted to provide a reduced bond amount for nonresident contractors who withhold income taxes from non-employee compensation, such as on payments to subcontractors. The department believes that the reduced bond amounts proposed in this Emergency Rule will be sufficient to guarantee the payment of state and local taxes by contractors who withhold and remit income taxes from non-employee compensation. An emergency is declared because contracts are now being bid and let, and contractors need to be aware required bond amounts and associated costs at the time that they submit bids.

This Emergency Rule is effective October 10 2005, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act, or until the promulgation of a permanent Rule, whichever is sooner.

Title 61
REVENUE AND TAXATION
Part I. Taxes Collected and Administered by the Secretary of Revenue
Chapter 43. Sales and Use Tax
§4373. Nonresident Contractors

A. - B. …

C. Contracts to be Registered with Secretary and Central Collector

1. Prior to obtaining a building permit necessary for the lawful commencement of any contract in Louisiana, a nonresident contractor shall register each contract that exceeds $3,000 in total price or compensation with the secretary of the Department of Revenue and Taxation and with the central sales and use tax collector for the parish in which the project is located. The secretary shall provide the necessary forms for the contractors to register each contract.

The forms will require the nonresident contractor to give a complete description of each project, pertinent tax registration data, and a list of anticipated subcontractors. A fee of $10 per contract shall be paid to the secretary at the time of registration. As required by the secretary, the contractor shall furnish a surety bond for each contract or a blanket surety bond for all contracts. The bond shall be:

a. two and one-half percent of the gross contract amount or $1,000, whichever is greater, if income tax withholdings remitted to the department include such payments deducted from non-employee compensation (e.g. independent contractors); or

b. five percent of the gross contract amount or $1,000, whichever is greater, if income tax is not withheld from non-employee compensation paid by the non-resident contractor.

2. Upon satisfactory completion of the registration and surety bond requirements, the secretary shall issue the contractor a certificate of compliance with which to obtain any building permits necessary for lawful commencement.

C.3. - F.2.d. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9, R.S. 47:306, R.S. 47:337.2, R.S. 47:337.18, R.S. 47:337.19, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Division, LR 21:185 (February 1995), amended by the Department of Revenue, Policy Services Division, LR 31:94 (January 2005), LR 32:

Raymond E. Tangney
Senior Policy Consultant

0510#071

DECLARATION OF EMERGENCY

Department of Social Services
Bureau of Licensing

Family Foster Care ServicesCRe-Certification
(LAC 48:I.4113)

The Department of Social Services, Bureau of Licensing has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B), to adopt the following standard in the certification of foster homes.

The effective date of this Emergency Rule is September 28, 2005 and it shall remain in effect for 120 days or until the final Rule takes effect through the normal promulgation process, whichever is shortest. This declaration is necessary to extend the original Emergency Rule effective June 1, 2005, 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 November 2005).

The Emergency Rule is necessary because Office of Community Services is unable to conduct an annual re-certification evaluation of each family foster home which could cause a potential loss of federal funds.

Title 48
SOCIAL SERVICES
Part I. General Administration
Subpart 3. Licensing and Certification
Chapter 41. Minimum Licensing Requirements for Child Placing Agencies with and without Adoption Programs

§4113. Family Foster Care Services

A. - F.3. ...

G. Monitoring and Periodic Re-Certification Services

1. ...

2. The agency shall conduct periodic re-certification evaluations of each family foster home to determine continued compliance with family home regulations, its maximum usefulness and limitations

G.3. - N.12.c. ...

O. Professional Responsibilities of the Foster Parent(s)

1. - 6.a.xvii. ...

7. Re-certification

a. Foster parent(s) shall cooperate with the child placing agency conducting the family foster home periodic re-certification study to verify compliance with family foster home regulations.

P. - V.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401.1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended LR 15:546 (July 1989), amended by the Department of Social Services, Bureau of Licensing, LR 32:

Ann Silverberg Williamson
Secretary

0510#016

DECLARATION OF EMERGENCY

Department of Social Services
Office of Family Support

FITAP, Food Stamp Program, and KCSP Combat Pay
(LAC 67:III.1229, 1980, and 5329)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to amend LAC 67:III, Subpart 2, Subpart 3, and Subpart 13, effective November 10, 2005. This Rule shall remain in effect for a period of 120 days. This declaration is necessary to extend the original Emergency Rule effective July 13, 2005, 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 November 2005).

Pursuant to P.L. 108-447, the Consolidated Appropriations Act of 2005, the agency will amend §1229 in the Family Independence Temporary Assistance Program (FITAP), §1980 in the Food Stamp Program, and §5329 in the Kinship

Care Subsidy Program (KCSP) to exclude from countable income additional pay received and made available to the household by a member of the United States Armed Forces deployed to a designated combat zone.

Emergency action in this matter is necessary as P.L. 108-447 mandates this change in the Food Stamp Program and failure to promulgate the Rule could result in the imposition of sanctions or penalties by the USDA, Food and Nutrition Service, the governing authority of the Food Stamp Program in Louisiana. To provide program continuity, this income exclusion will also be applied to the FITAP and KCSP programs.

Title 67
SOCIAL SERVICES
Part III. Family Support
Subpart 2. Family Independence Temporary Assistance Program
Chapter 12. Application, Eligibility and Furnishing Assistance
Subchapter B. Conditions of Eligibility
§1229. Income

A. Income is any gain or benefit to a household that has monetary value and is not considered a resource. Count all income in determining pretest eligibility except income from:

1. - 28. ...

29. Effective October 1, 2004 additional pay received and made available to the household by a member of the United States Armed Forces deployed to a designated combat zone.

B. - G. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C.601 et. Seq. and 10602(c), R.S. 36:474, R. S. 46:231.1.B, R.S. 46:231.2, P.L.108-447.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2449 (December 1999), amended LR 26:1342 (June 2000), LR 26:2831 (December 2000), LR 32:

Subpart 3. Food Stamps
Chapter 19. Certification of Eligible Households
Subchapter I. Income and Deductions
§1980. Income Exclusion

A. - C. ...

D. Effective October 1, 2004, additional pay received and made available to the household by a member of the United States Armed Forces deployed to a designated combat zone.

AUTHORITY NOTE: Promulgated in accordance with P.L.103-66, 7 CFR 273.9(c)(11), P.L. 104-193, P. L. 107-171, P.L. 108-447.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 20:990 (September 1994), amended LR 20:1362 (December 1994), LR 21:186 (February 1995), LR 23:82 (January 1997), LR 29:607 (April 2003), LR 32:

Subpart 13. Kinship Care Subsidy Program (KCSP)
Chapter 53. Application, Eligibility, and Furnishing Assistance
Subchapter B. Conditions of Eligibility
§5329. Income

A. Income is any gain or benefit to a household that has monetary value and is not considered a resource. Count all income in determining pretest eligibility except income from:

1. - 27. ...

28. Effective October 1,2004, additional pay received and made available to the household by a member of the United States Armed Forces deployed to a designated combat zone.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq. and 10602(c), R.S. 36:474, R.S. 46:231.1.B, R. S. 46:237, and P.L.108-447.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:353 (February 2000), amended LR 26:2832 (December 2000), LR 32:

Ann Silverberg Williamson
Secretary

0510#054

DECLARATION OF EMERGENCY

Department of Social Services
Office of Family Support

Truancy Assessment and Service Centers
(LAC 67:III.5539)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of R.S. 49:953(B), the Administrative Procedure Act, to adopt LAC 67:III, Subpart 15, Chapter 55, §5539, Truancy Assessment and Service Centers, as a new TANF Initiative. This Emergency Rule, effective October 1, 2005, will remain in effect for a period of 120 days.

As a result of Act 1 of the 2004 Legislative Session, the agency repealed several TANF Initiatives including Truancy Assessment and Service Centers effective September 2004, as funding for the programs was no longer available. Pursuant to Act 16 of the 2005 Regular Session of the Louisiana Legislature, the agency is re-establishing this program as funds have once again been appropriated for this initiative.

The authorization for emergency action in this matter is contained in Act 16 of the 2005 Regular Session of the Louisiana Legislature.

Title 67
SOCIAL SERVICES
Part III. Family Support
Subpart 15. Temporary Assistance to Needy Families (TANF) Initiatives
Chapter 55. TANF Initiatives
§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 intervene to ensure that children in kindergarten through sixth grade attend school regularly.

B. These services meet the TANF goal to prevent and reduce the incidence of out-of-wedlock births 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.

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; Act 16, 2005 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 32:

Ann Silverberg Williamson
Secretary

0510#022

DECLARATION OF EMERGENCY

Department of Treasury
Board of Trustees of the
State Employees' Retirement System

Hurricane EmergencyCBoard Election Rules
(LAC 58.I.301 and 501)

Under the authority of R.S. 11:515 and in accordance with R.S. 49:951 et seq., the Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System ("LASERS") advertises its intent to amend LAC 58.I.301 and 58.I.501, which set out the general schedule of elections to the LASERS Board of Trustees.

The Louisiana Southeast Gulf Coast region has been disrupted by the devastation and disorder resulting from Hurricane Katrina. Large numbers of Louisiana residents, many of them employees and retirees of the state of Louisiana have been forced from their homes and regular places of work. This emergency enactment is necessary to allow those persons displaced by Hurricane Katrina additional time in which to participate in the election of trustees to the LASERS Board.

This rule shall become effective on September 15, 2005, and shall remain in effect for 120 days or until it becomes re-enacted by emergency rule or through the normal promulgation process, whichever comes first.

Title 58
RETIREMENT
Part I. Louisiana State Employee's Retirement System
Chapter 3. Election of Active Member Trustees
§301. General Schedule of Elections

A. Elections for active member trustees shall be held in years ending with an odd number. Three active member trustees shall be chosen in each election and shall serve a four-year term.

B. The schedule for elections shall be as follows.

1. Second Tuesday in June: nominations shall be opened.

2. Second Tuesday in July: nominations shall be closed. All nominating petitions must be received by the close of business (4:30 p.m. Central Daylight Savings Time).

3. Friday following Second Tuesday in July: a drawing to determine candidate positions on a ballot shall be held.

4. Friday, November 4, 2005: the final day that information on candidates and ballots may be mailed.

5. Friday, December 9, 2005: all ballots or electronic votes must be received by the close of business (4:30 p.m. Central Standard Time). No faxed ballots shall be accepted.

6. Wednesday, December 14, 2005: all ballots and electronic votes shall be tallied and verified.

7. Regular December meeting: the board shall be presented with the certified ballot count, and if it is accepted, shall authorize publication of results.

8. Oaths shall be taken prior to the following January meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:996 (August 1997), LR 25:1278 (July 1999), LR 26:2633 (November 2000), LR 32:

Chapter 5. Election of Retired Member Trustees
§501. General Schedule of Elections

A. Beginning in 1995 and continuing thereafter every four years, two retired member trustees shall be chosen in an election and shall serve a four-year term. Beginning in 1997 and continuing thereafter every four years, a single retired trustee shall be chosen in an election and shall serve a four-year term.

B. The schedule for elections shall be as follows.

1. Second Tuesday in June: nominations shall be opened.

2. Second Tuesday in July: nominations shall be closed. All nominating petitions must be received by the close of business (4:30 p.m.).

3. Friday following Second Tuesday in July: a drawing to determine candidate positions on a ballot shall be held.

4. Friday, November 4, 2005: the final day that information on candidates and ballots may be mailed.

5. Friday, December 9, 2005: all ballots or electronic votes must be received by the close of business (4:30 p.m. Central Standard Time). No faxed ballots shall be accepted.

6. Wednesday, December 14, 2005: all ballots and electronic votes shall be tallied and verified.

7. Regular December meeting: the board shall be presented with the certified ballot count, and if it is accepted, shall authorize publication of results.

8. Oaths shall be taken prior to the following January meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11: 511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:997 (August 1997), LR 25:1278 (July 1999), LR 26:2633 (November 2000), LR 32:

Robert L. Borden
Executive Director

0510#002

DECLARATION OF EMERGENCY

Department of Treasury
Board of Trustees of the Louisiana
State Employees' Retirement System

Hurricane Emergency
Certification of Continuing Eligibility
(LAC 58.I.2511)

Under the authority of R.S. 11:515 and in accordance with R.S. 49:951 et seq., the Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System ("LASERS") advertises its intent to amend LAC 58.I.2511, which sets out the requirement that certain disability retirees obtain an annual attending physician's statement certifying their continued eligibility for disability retirement.

The Louisiana Southeast Gulf Coast region has been disrupted by the devastation and disorder resulting from Hurricane Katrina. Large numbers of Louisiana residents, many of them employees and retirees of the state of Louisiana have been forced from their homes and regular places of work. This emergency enactment is necessary to allow those persons displaced by Hurricane Katrina additional time in which to obtain the Annual Attending Physician's Statement required under LAC 58.I.2511.

This Rule shall become effective on September 30, 2005, and shall remain in effect for 120 days or until it becomes re-enacted by Emergency Rule or through the normal promulgation process, whichever comes first.

Title 58
RETIREMENT
Part I. Louisiana State Employees' Retirement System
Chapter 25. Proceudres for Processing Disability Applications
§2511. Certification of Continuing Eligibility

A. LASERS may require a disability retiree to complete an Annual Attending Physician Statement (AAPS) once each year during the first five years following the disability retirement and once in every three years thereafter until the retiree has reached the equivalent age of regular retirement unless the medical evidence shows conclusively that the disability retiree cannot recover from the disability. The AAPS needs to be returned within ten business days of receipt by the disability retiree. Depending on the results of the AAPS LASERS may require a disability retiree to undergo a medical examination.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:1959 (October 1998), LR 26:1490 (July 2000), LR 27:1581 (September 2001), LR 32:

Robert L. Borden
Executive Director

0510#018

DECLARATION OF EMERGENCY

Department of Treasury
Board of Trustees of the Louisiana
State Employees' Retirement System

Hurricane Emergency Refund
(LAC 58.I.1301)

Under the authority of R.S. 11:515 and in accordance with R.S. 49:951 et seq., the Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System ("LASERS") advertises its intent to amend LAC 58.I.1301, which sets out the conditions under which an emergency refund of accumulated employee contributions may be paid.

Large portions of the state of Louisiana have been disrupted by the devastation and disorder resulting from Hurricanes Katrina and Rita. Large numbers of Louisiana residents, many of them employees of the state of Louisiana have been forced from their homes and regular places of work. This emergency enactment is necessary to allow those persons adversely affected by Hurricanes Katrina and Rita to obtain a refund of accumulated contributions in an accelerated manner.

This Rule shall become effective on September 30, 2005, and shall expire on December 31, 2005.

Title 58
RETIREMENT
Part I. Louisiana State Employees' Retirement System
Chapter 13. Emergency Refunds
§1301. Conditions Giving Rise to an Emergency Refund

A. A refund of accumulated employee contributions may be made in less than 30 calendar days after the date of separation from state service in the following situations:

1. the refund results from the death of the member; or
2. the member has significant expenses for medical care for himself, spouse, or child; or
3. an emergency situation of the member, which shall consist of the foreclosure on a member's domicile, repossession of the member's vehicle, or eviction of the member from his or her apartment; or
4. an emergency situation resulting from the impact of Hurricanes Katrina or Rita.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515 and R.S. 11:537(B).

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:1710 (December 1997), LR 31:107 (January 2005), LR 32:

Robert L. Borden
Executive Director

0510#019

DECLARATION OF EMERGENCY

Department of Treasury
Teachers' Retirement System

Hurricane Katrina Distribution
(LAC 58:III.510)

The Board of Trustees of the Teachers' Retirement System of Louisiana hereby adopts the following Emergency Rule to implement provisions of the United States Hurricane Katrina Tax Relief Act of 2005 and the corresponding revisions to the Internal Revenue Code (IRS Announcement 2005-70). This act allows for withdrawals, from a public pension plan qualified under the provisions of the Internal Revenue Code, Section 401(a), to be made by retirees residing in the Hurricane Katrina disaster area. These distributions will be allowed through December 31, 2006 without penalty.

This Emergency Rule applies appropriate provisions of the Act to Deferred Retirement Option Plan (DROP) accounts of retirees who have sustained an economic loss due to Hurricane Katrina. The board of trustees has determined that this Emergency Rule is necessary to implement the appropriate provisions of the Act. This Emergency Rule becomes effective on October 6, 2005, and will remain in effect 120 days or until the permanent Rule is promulgated.

Title 58
RETIREMENT
Part III. Teachers' Retirement System of Louisiana
Chapter 5. Deferred Retirement Option Plan
§510. Distributions Provided for by the Hurricane Katrina Tax Relief Act of 2005

A. If a participant's principal residence was located in the Hurricane Katrina disaster area on August 28, 2005, as provided by said Act and they sustained an economic loss as a result of Hurricane Katrina, they may be able to withdraw funds from their DROP/ILSB account in addition to those normally allowed under §509. In order to receive an additional distribution, the participant must have retired prior to the special withdrawal request.

B. Hurricane Katrina distributions must be made between August 25, 2005 and December 31, 2006. Additional distributions are limited to $100,000, and possibly less if the participant received Hurricane Katrina distributions from any other retirement accounts; however, no distribution is allowable greater than the participant's account balance. A qualified distribution is not subject to any penalty that would normally be imposed because of the participant's age, and the distribution is not subject to any mandatory federal income tax withholding.

C. Participants eligible to receive funds under this provision must complete a notarized Hurricane Katrina Affidavit attesting to their eligibility.

D. If the participant is married, consent of the participant's spouse is required to receive a Hurricane Katrina distribution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:786-791 and Internal Revenue Code, Section 401(a).

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 32:

Maureen H. Westgard
Director

0510#052

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

2005 Alligator Season Changes

In accordance with the provisions of R.S. 49:953(B) of the Administrative Procedure Act and LAC 76:V.701.A.7.a.i., the Secretary of the Department of Wildlife and Fisheries does hereby extend the closing date of the 2005 wild alligator harvest season as set out below.

Hurricanes Katrina and Rita struck Louisiana resulting in catastrophic damage. This catastrophe has severely impacted over a million residents, flooded thousands of homes, and millions of acres of coastal marshes. Alligator populations in affected areas have been displaced and suffered some degree of direct mortality. Assessment of these impacts is ongoing. Additionally, many alligator hunters in the affected areas are displaced and have had their harvest efforts delayed due to the hurricanes. Income for the annual wild alligator harvest often provides significant economic relief to these coastal residences. Therefore, the closing date of the 2005 wild alligator season will be extended to close statewide on Sunday, October 30, 2005. Alligators taken from the wild may be removed from hook and line and taken with other legal capture devices only during daylight hours between official sunrise and official sunset. Hunters are reminded to coordinate their harvest activity with their local alligator buyer or processor as they may have been affected by the hurricane as well.

Also, pursuant to R.S. 56:8 and 251 et seq. and the rules and regulations promulgated pursuant thereto, the Secretary of the Department of Wildlife and Fisheries does hereby amend that portion of LAC 76:V.701.A.11.b.ii., which states that "Lost or stolen tags will not be replaced," to provide as follows: Alligator hunters who have lost their assigned alligator harvest tags and alligator hunting licenses due to the impacts of Hurricanes Katrina and Rita can apply in writing to the Department of Wildlife and Fisheries for replacement tags and licenses.

Affected alligator hunters must apply to the New Iberia Office at 2415 Darnall Road, New Iberia, LA, 70560. The application can be in letter form and must confirm that the tags and licenses were lost due to the impacts of Hurricanes Katrina and/or Rita. Once replacement alligator harvest tags are issued, the original harvest tags cannot be used, and use of those tags will constitute a Class 2 violation. Further, all lost or stolen tags must be reported to the department. All unused tags must be returned to the department within 15 days following the close of the season. The 2005 wild alligator harvest season will close on October 30, 2005.

Therefore, effective September 30, 2005, the department is acting to suspend the Rule that would normally prohibit the replacement of lost alligator tags for those individuals thus impacted by Hurricanes Katrina and Rita.

This Declaration of Emergency shall expire on October 30, 2005.

Dwight Landreneau
Secretary

0510#021

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Alligator Harvest Tag Replacement (LAC 76:V.701)

In accordance with R.S. 49:953(B) of the Administrative Procedure Act, and pursuant to R.S. 56:8 and 251 et seq. and the rules and regulations promulgated pursuant thereto, the Secretary of the Department of Wildlife and Fisheries does hereby amend that portion of LAC 76:V.701.A.11.b.ii., which states that "Lost or stolen tags will not be replaced," to provide as follows: Alligator hunters who have lost their assigned alligator harvest tags and alligator hunting licenses due to the impacts of Hurricane Katrina can apply in writing to the Department of Wildlife and Fisheries for replacement tags and licenses.

Affected alligator hunters must apply to the New Iberia Office at 2415 Darnall Road, New Iberia, LA 70560. The application can be in letter form and must confirm that the tags and licenses were lost due to the impacts of Hurricane Katrina. Once replacement alligator harvest tags are issued, the original harvest tags cannot be used, and use of those tags will constitute a Class 2 violation. Further, all lost or stolen tags must be reported to the department. All unused tags must be returned to the department within 15 days following the close of the season. The 2005 wild alligator harvest season will close on October 13, 2005.

Hurricane Katrina struck southeast Louisiana on August 29, 2005 resulting in catastrophic damage. Many alligator hunters in Katrina's path have suffered damage to their homes and personal belongings, including loss of their previously issued alligator harvest tags and licenses. Income for the annual wild alligator harvest often provides significant economic relief to these coastal residents. Therefore, the department is acting to suspend the Rule effective September 21, 2005 that would normally prohibit the replacement of lost alligator tags for those individuals thus impacted by Hurricane Katrina. This Declaration of Emergency shall expire on October 13, 2005.

Dwight Landreneau
Secretary

0510#008

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Hunting Season ClosureCSt. Mary Parish

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, and R.S. 56:6 and 56:115 et seq. and the rules and regulations promulgated pursuant thereto, the Secretary of the Department of Wildlife and Fisheries hereby adopts the following Emergency Rule:

Because of the devastating impacts of Hurricane Rita, deer and rabbit hunting is hereby closed effective October 7, 2005 in that portion of Iberia Parish, south of LA Highway 14 and US Highway 90, and in that portion of St. Mary Parish, south of US Highway 90, EXCEPT, this closure shall not apply to the Atchafalaya Delta WMA (however, the scheduled youth hunt on October 8-9 has been cancelled). This season closure will remain in effect until further surveys of the impact to these two species and their habitats can be conducted.

Deer, rabbit, and squirrel hunting will remain closed in portions of Ascension, Livingston, St. John, and St. James parishes north and west of US Highway 51 from US 61 to Frenier Road, north of Frenier Road to Lake Pontchartrain, west of Lake Pontchartrain to Pass Manchac, south of Pass Manchac to Lake Maurepas, south of Lake Maurepas to the Blind River, south of Blind River to the Amite River Diversion Canal, south of Amite River Diversion Canal to LA Highway 22, south of LA Highway 22 to LA Highway 70 in Sorrento, east of LA Highway 70 to LA Highway 3125, north of LA Highway 3125 to LA Highway 641, north and west of LA Highway 641 to US Highway 61, north of US Highway 61 to US Highway 51. The decision to close hunting in this area is based upon the flooding that has continued in this area since Hurricane Rita, utilizing the water levels documented from past flooding activity. Water is slowly receding in this area and this season closure will remain in effect until further notice. This area will not be opened on October 8, as previously stated in an earlier Declaration of Emergency.

Dwight Landreneau
Secretary

0510#047

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Hunting Season Closures

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, and under the authority of R.S. 56:115, the Secretary of the Department of Wildlife and Fisheries hereby adopts the following Emergency Rule.

Upon the authority of R.S. 56:6.1 and the authority granted to the secretary by the commission to close seasons, deer and rabbit hunting in the following parishes of Plaquemines and St. Bernard is hereby closed effective October 1, 2005 until further notice. The decision to close hunting was based upon the devastating impact to these two parishes from hurricane Katrina. These season closures will remain in effect until more detailed surveys of the impact to these two species and their habitats can be conducted and a review of the findings is evaluated.

Dwight Landreneau
Secretary

0510#003

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Hunting Season ClosuresCHurricane Rita

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, and R.S. 56:6 and R.S. 56:115 et seq. and rules and regulations promulgated pursuant thereto, the Secretary of the Department of Wildlife and Fisheries hereby adopts the following Emergency Rule.

Because of the devastating impacts of Hurricane Rita, deer and rabbit hunting is hereby closed effective October 1, 2005 in all of Cameron Parish except that portion north of LA Highway 14, that portion of Vermilion Parish south of LA Highway 14, that portion of Jefferson Davis Parish south of LA Highway 14, and that portion of Calcasieu Parish south of LA Highway 14 and Interstate 10 west of its intersection with LA Highway 14. This season closure will remain in effect until more detailed surveys of the impact to these two species and their habitats can be conducted and a review of the findings is evaluated.

Deer, rabbit, and squirrel hunting is hereby closed effective October 1, 2005 in portions of Ascension, Livingston, St. John, and St. James parishes north and west of US Highway 51 from US Highway 61 to Frenier Road, north of Frenier Road to Lake Pontchartrain, west of Lake Pontchartrain to Pass Manchac, south of Pass Manchac to Lake Maurepas, south of Lake Maurepas to the Blind River, south of Blind River to the Amite River Diversion Canal, south of Amite River Diversion Canal to LA Highway 22, south of LA Highway 22 to LA Highway 70 in Sorrento, east of LA Highway 70 to LA Highway 3125, north of LA Highway 3125 to LA Highway 641, north and west of LA Highway 641 to US Highway 61, north of US Highway 61 to US Highway 51. The decision to close hunting in this area is based upon the flooding that has continued in this area since Hurricane Rita, utilizing the water levels documented from past flooding activity. Water is slowly receding in this area and this season closure will remain in effect until the area reopens on October 8, 2005.

Deer and rabbit hunting is hereby closed effective October 1, 2005 in those portions of Terrebonne, Lafourche, and Jefferson parishes south of the Intracoastal Waterway. The decision to close these seasons is based upon the flooding that has occurred since Hurricane Rita. These areas should be reopened for hunting shortly, as soon as water levels return to normal and the stress to these populations due to flooding is removed. A special announcement pertaining to this opening will be made.

The first Youth Lottery Deer Hunt on Atchafalaya Delta Wildlife Management Area scheduled for October 8-9, 2005 is cancelled.

The U.S. Army has declared all hunting seasons on Fort Polk Wildlife Management Area and Peason Ridge Wildlife Management Area will be closed October 1 and 2, 2005. The Army is assessing damage to these WMAs and once these assessments are completed, announcements will be made concerning reopening the seasons.

Dwight Landreneau
Secretary

0510#020

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Shallow Water Grouper Season Closure

The commercial season for the harvest of shallow-water groupers in Louisiana state waters will close effective 12:01 a.m., October 10, 2005. The shallow-water grouper assemblage includes red, black, gag, yellowfin, scamp, and yellowmouth groupers, rock hind, and red hind. The secretary has been informed that the commercial season for shallow-water groupers in the federal waters of the Gulf of Mexico off the coast of Louisiana will close at 12:01 a.m., October 10, 2005 and will remain closed until 12:01 a.m., January 1, 2006.

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967 which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, and the authority given to the secretary of the department by the commission in its resolution of January 6, 2005 to modify opening and closing dates of 2005 commercial reef fish seasons in Louisiana state waters when he is informed by the regional director of the National Marine Fisheries Service (NMFS) that the seasons have been closed in adjacent federal waters, and that the NMFS requests that the season be modified in Louisiana state waters, the secretary hereby declares:

The commercial fishery for shallow-water groupers in Louisiana waters will close at 12:01 a.m., October 10, 2005, and remain closed until 12:01 a.m., January 1, 2006. Effective with this closure, no person shall commercially harvest, possess, purchase, barter, trade, sell or attempt to purchase, barter, trade or sell shallow-water groupers whether within or without Louisiana waters. Effective with this closure, no person shall possess shallow-water grouper in excess of a daily bag limit, which may only be in possession during the open recreational season. Nothing shall prohibit the possession or sale of fish legally taken prior to the closure providing that all commercial dealers possessing shallow-water grouper taken legally prior to the

closure shall maintain appropriate records in accordance with R.S. 56:306.5 and R.S. 56:306.6.

The secretary has been notified by National Marine Fisheries Service that the commercial shallow-water grouper season in federal waters of the Gulf of Mexico will be closed effective 12:01 a.m., October 10, 2005, and the season will remain closed until 12:01 a.m., January 1, 2006. Having compatible season regulations in state waters is necessary to provide effective Rules and efficient enforcement for the fishery, and to prevent overfishing of this species assemblage in the long term.

Dwight Landreneau
Secretary

0510#063

Rules

RULE

Board of Elementary and Secondary Education

Bulletin 111—The Louisiana School, District, and State Accountability System
(LAC 28:LXXXIII.Chapters 3, 5, and 31)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended *Bulletin 111—The Louisiana School, District, and State Accountability System* (LAC Part LXXXIII). Act 478 of the 1997 Regular Legislative Session called for the development of an accountability system for the purpose of implementing fundamental changes in classroom teaching by helping schools and communities focus on improved student achievement. The state's accountability system is an evolving system with different components.

These changes take advantage of new flexibility in guidance for No Child Left Behind and address situations that were not considered when the accountability policy was initially written.

Title 28
EDUCATION
Part LXXXIII. Bulletin 111—The Louisiana School, District, and State Accountability System

Chapter 3. School Performance Score Component

§307. Incentive Points

A. Students repeating the 4th or 8th grade must retake all parts of the LEAP 21 exam.

B. If, during spring testing, a repeating 4th grade student or Option I 8th grade student scores at a higher achievement level on a LEAP 21 test of mathematics, English language arts, science or social studies than the previous spring, the retaining school shall receive 50 incentive points per improved subject in its accountability index. A student may earn a maximum of 200 incentive points for his/her school.

C. Beginning with summer school results in 2005, if a 4th or 8th grade student scores at a higher achievement level on a LEAP test of mathematics or English language arts than the previous spring, the school where the student tested in the spring earns 50 incentive points per improved subject. The incentive points will be included in school performance score calculations the following academic year.

D. Option II 8th grade students (students passing one part of the LEAP 21 that have been placed on a high school campus) must retake the part of the LEAP 21 exam they failed.

1. If, during spring testing, an Option II 8th grade student receives a score of approaching basic or above on the LEAP 21 test for which he/she received a score of unsatisfactory the previous spring, the high school in which the Option II 8th grader is enrolled, shall earn 50 incentive points in its 9th grade NRT index.

E. Students repeating the GEE 21 ELA, math, science, and/or social studies tests shall not earn incentive points.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2739 (December 2003), amended LR 31:2422 (October 2005).

Chapter 5. Calculating the NRT Index

§515. State Assessments and Accountability

A . - F. ...

G. Scores earned by any student during an academic year who transferred into the LEA after October 1 of the same academic year shall not be included in the School Performance Score (SPS) or Subgroup Performance Score (GPS).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2741 (December 2003), amended LR 31:2422 (October 2005).

§517. Inclusion of Students

A. As a general rule for the school performance score calculations, the test score of every student who is enrolled in any school in a LEA on October 1 of the academic year and who is eligible to take a test at a given school within the same LEA shall be included in that school's performance score regardless of how long that student has been enrolled in that school.

B. A school that has at least 10 percent of its testing population transferring from other schools within the LEA after October 1 but before the conclusion of spring testing may request the LEA file an appeal (as described in §3109) and provide the Louisiana Department of Education with sufficient evidence that excluding these students from school performance score calculations would change its academic assistance or school improvement level; or its growth or rewards label.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2741 (December 2003), amended LR 31:1512 (July 2005), LR 31:2422 (October 2005).

Chapter 31. Data Correction and Appeals/Waivers Procedure

§3101. Appeals/Waivers Process

A. …

B. The LDE shall review appeal/waiver requests and make recommendations to the SBESE within 60 days, beginning the last day of the appeals/waiver filing period. Within this interval, the LDE shall notify LEAs of its recommendations and allow them to respond in writing. The LDE's recommendations and LEA responses will be forwarded to SBESE for final disposition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2751 (December 2003), amended LR 30:1620 (August 2004), repromulgated LR 30:1996 (September 2004), amended LR 30:2257 (October 2004), LR 31:2422 (October 2005).

§3109. Criteria for Appeal

A. LEA superintendents shall notify the LDE in writing of any changes to existing school configurations, changes to option status for alternative schools or pair/share status during the LDE accountability status verification process prior to the calculation of the school performance scores and subgroup component scores. Appeal recalculations shall be made using the information provided to the LDE in the following instances.

1. At least 10 percent of the students eligible for spring testing transferred into the school after October 1 of the same academic year from schools within the district (see §517).

a. Recalculations based on intra-district transfer shall exclude all such students from the growth calculation and the prior baseline calculation.

b. Any transfers resulting from school and district decisions shall not be included in recalculations (transfers to alternative programs, discipline centers, dropout prevention programs, pre-GED skills options programs, etc.).

c. Only changes in the Growth SPS and the Growth Label will be reflected on the School Report Cards.

d. No changes shall be made on the new Baseline SPS or the Performance Label.

2. An alternative school changes its option status by meeting the eligibility requirements.

3. A school's (inclusive of those paired or shared) enrollment has significantly changed by 50 percent or more from the previous academic year as a result of redistricting by the local governing board of education.

B. - D. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2752 (December 2003), amended LR 30:1620 (August 2004), repromulgated LR 30:1997 (September 2004), amended LR 31:1512 (July 2005), LR 31:2423 (October 2005).

§3111. Criteria for Waiver

A. Factors beyond the reasonable control of the local governing board of education and also beyond the reasonable control of the school exist.

B. A school lacks the statistically significant number of testing units for the CRT and NRT necessary to calculate the SPS and has no systematic "feeding" pattern into another school by which data could be "shared" because the school is:

1. a lab school;
2. a Type 1, 2, or 3 charter school;
3. operated by the Department of Corrections; or
4. beyond the sovereign borders of Louisiana;
5. an SSD #1or #2 school;
6. a SBESE school;
7. non-diploma bound school.

C. The student body of the school (Pre-K through K-2) comprised of primarily Pre-K and K students (greater than 50 percent of the total student membership) and has no systematic "feeding" pattern into another school or schools by which it could be "paired."

1. *Feeding Pattern*Cthe plan used by local governing boards of education to transfer students from one school to another for educational services as a result of pupil progression into higher grades.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2752 (December 2003), amended LR 31:1512 (July 2005), LR 31:2423 (October 2005).

Weegie Peabody
Executive Director

0510#015

RULE

Board of Elementary and Secondary Education

Bulletin 746CLouisiana Standards for State Certification of School PersonnelCNational Board Certification
(LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended *Bulletin 746CLouisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. This policy will allow a teacher from out-of-state, who holds certification/licensure in the state of origin and National Board Certification (NBC) the opportunity to become Louisiana certified. This certificate will be issued a corresponding area for which certification is being sought. The examination required for NBC will be accepted to fulfill testing requirements for Louisiana. Teachers from out-of-state with NBC or appropriate evaluations from their immediate previous assignment will be exempt from the Louisiana Teacher Assistance and Assessment Program component. Teachers holding Louisiana certification will be allowed to add corresponding areas to their certificates as well as renew their Level 2 or Level 3 certificate based upon NBC earned during the validity period of the Level 2 and Level 3 certificates.

Current policy does not allow National Board Certified teachers the option of gaining certification or using their National Board Certification to fulfill any Louisiana guidelines for additional certification.

Title 28
EDUCATION
Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
Subchapter A. Bulletins and Regulations
§903. Teacher Certification Standards and Regulations

A. Bulletin 746

* * *

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 1:183 (April 1975),

amended LR 1:311 (July 1975), LR 1:399 (September 1975), LR 1:435 (October 1975), LR 1:541 (December 1975), LR 28:2505 (December 2002), LR 29:117, 119, 121 (February 2003), LR 31:2423 (October 2005).

* * *

National Board Certification as a Pathway for Out-of-State Certification or Pathway to Add Certification Areas to a Louisiana Certificate

Individuals who have met National Board Certification (NBC) through the National Board for Professional Teaching Standards may qualify to use that certificate in Louisiana to qualify under the following pathways.

Pathway 1COut-of-State Teacher

Out-of-state individuals who have obtained National Board Certification (NBC) and certification/licensure in the state of origin may be issued Level 1, Level 2, or Level 3 Louisiana teaching certificates in corresponding areas for which certification is being sought. The examination required for NBC will be accepted to fulfill the testing requirements for certification.

Out-of-state teachers who provide NBC or appropriate evaluation results from their immediate previous teaching assignment will be exempt from participation in the Louisiana Teacher Assistance and Assessment Program. Appropriate evaluation results shall be defined as satisfactory annual evaluation results identified by and certified by the immediate previous out-of-state school district(s).

Pathway 2CIn-State Teacher

NBC teachers with an existing Louisiana teaching certificate may have added to their certificate, the addition (add-on) or endorsement in the corresponding area for which NBC is held.

Teachers with an existing Level 2 or Level 3 Louisiana teaching certificate may renew that certificate based upon completion of NBC during the period of certificate validity, as satisfaction in full of the 150 continuing learning units required for renewal.

* * *

Weegie Peabody
Executive Director

0510#014

RULE

Board of Elementary and Secondary Education

Bulletin 746CLouisiana Standards for State Certification of School PersonnelCOut-of-Field Authority to Teach
(LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, Board of Elementary and Secondary Education amended *Bulletin 746CLouisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. This policy, approved by the board April 2005, will allow a Louisiana employing school district the option of a two-year renewal of Out-of-Field Authorities to Teach (OFAT) for individual pursuing certification in special education areas. Those specific areas are: Academically Gifted, Early Interventionist, Hearing Impaired, Visually Impaired and Significant Disabilities. This policy will also allow a one-year renewal of the OFAT certificate in the area of Mild-Moderate.

The current policy allows a maximum of three years for an individual to be employed on an OFAT certificate. Since the special education areas require an extensive amount of hours for completion and the coursework is not readily available for individuals to complete, the department recommended that a renewal be allowed for those special education areas only.

Title 28
EDUCATION
Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
Subchapter A. Bulletins and Regulations
§903. Teacher Certification Standards and Regulations

A. Bulletin 746

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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 in LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975), LR 28:2505-2508 (December 2002), LR 29:117, 119 (February 2003), LR 29:119-121 (February 2003), LR 29:121, 123 (February 2003), LR 31:2424 (October 2005).

* * *

Effective July 2002, Revised May 2002

Types of Teaching Authorizations and Certifications

STANDARD TEACHING AUTHORIZATIONS Teachers holding standard teaching authorizations and certifications may meet the requirements of the NCLB mandate.		
Professional Level Certificates (Issued beginning July 1, 2002)		
Level 1 Professional Certificate (Three-year term)	Teachers must graduate from a State-approved teacher preparation program (traditional or alternative path), pass PRAXIS, and be recommended by a university to receive a Level 1 Professional Certificate. -or- Teacher must complete a State-approved Practitioner Teacher Program, pass PRAXIS, and be recommended by the Practitioner Teacher Program provider to receive a Level 1 Professional Certificate. -or- Teacher must meet the requirements of an out-of-state certified teacher.	A lapsed Level 1 certificate may be renewed once for an additional three years, upon recommendation of the parish superintendent (or corresponding administrative officer of a private school system) who wishes to employ such teachers, subject to the approval of Teacher Certification and Higher Education, or upon the presentation of six semester hours of resident, extension, or correspondence credit directly related to the area of certification.
Level 2 Professional Certificate	Teachers with a Level 1 Professional Certificate must pass the Louisiana Teacher Assistance and Assessment Program and teach for three years to receive a Level 2 Professional Certificate.	Teachers must complete 150 clock hours of professional development over a five-year time period in order to have a Level 2 Professional License renewed.
Level 3 Professional Certificate	Teachers with a Level 1 or Level 2 Certificate are eligible for a Level 3 Certificate if they complete a Masters Degree, teach for five years, and pass the Louisiana Teacher Assistance and Assessment Program.	Teachers must complete 150 clock hours of professional development over a five-year time period in order to have a Level 3 Professional License renewed.
Standard Teaching Certificates (Issued prior to July 1, 2002)		
Type C Certificate	Type C certificates will not be issued after July 1, 2002.	
Type B Certificate	Candidates currently holding Type A or Type B certificates will continue to hold these certificates, which are valid for life, provided the holder does not allow any period of five or more consecutive years of disuse to accrue and/or the certificate is not revoked by the State Board of Elementary and Secondary Education, acting in accordance with law.	
Type A Certificate		
Out-of-State Certificate		
A teacher certified in another state who meets all requirements for a Louisiana certificate, except for the PRAXIS examinations.	Individual submits application to LDE. Valid for three years and non-renewable.	Teacher must take and pass the appropriate PRAXIS examinations -or- Teacher provides evidence of at least four years of successful teaching experience in another state, completes one year of employment as a teacher in Louisiana public school systems, and secures recommendation of the local superintendent of the employing school system for continued employment

Practitioner Licenses Teachers holding standard teaching authorizations and certifications may meet the requirements of the NCLB mandate.			
One-year license that can be held a maximum of three years, renewable annually.	The District and the alternate certification program provider must identify the individual as a practitioner teacher (PL1), a non-master's alternate certification program teacher (PL2), a master's alternate certification program teacher (PL3), or as a teacher who is not in one of the three new alternate certification programs (PL4) but qualifies for a PL.	Teacher must be admitted to and enrolled in a State-approved Practitioner Teacher Program (PL1), Non-Master's Alternate Certification Program (PL2), or Master's Degree Alternate Certification Program (PL3), which necessitates meeting all program requirements including baccalaureate degree, stipulated GPA, and passing scores on the Praxis PPST and content area exams. A teacher receiving a PL4 license is not in a new alternate certification program, has passed the Praxis content specialty exam or has 31 hours in the content area of certification, but has not yet completed all requirements for full certification.	The alternate certification teacher (PL1, PL2, and PL3) must remain enrolled in the respective program and fulfill all coursework, teaching assignments, and prescribed activities as identified by the program provider. The PL4 teacher must complete all alternate program coursework that remains, complete all Praxis requirements for the certification area, and achieve a 2.50 GPA. Program requirements must be completed within the three-year maximum that the license can be held. PL2 and PL3 teachers must demonstrate progress toward program requirements by successfully completing at least 9 semester hours each year to remain on the PL license.

Non-Standard Temporary Authorizations to Teach* (Teachers holding non-standard teaching authorizations and certifications DO NOT meet NCLB mandate requirements.)			
Temporary Authority to Teach A teacher may hold a one-year Temporary Authorization to Teach for a maximum of three years while pursuing a specific certification area. He/she may not be issued another Temporary Certification at the end of the three years for the same certification area unless the Louisiana Department of Education designates the area as one that requires extensive hours for completion.	Districts may recommend that teachers be given one-year temporary authorizations to teach according to the stipulated conditions. Districts submit the application to LDE and provide an affidavit signed by the local superintendent that "there is no regularly certified, competent, and suitable person available for that position" and that the applicant is the best qualified person for the position.	**Conditions**	**Requirements to renew Temporary Authorization to Teach and/or Move to Another Certification Level**
		a. Individual who graduates from teacher preparation program but does not pass PRAXIS	Teacher must prepare for the PRAXIS and take the necessary examinations at least twice a year.
		b. Individual who holds a minimum of a baccalaureate degree from a regionally-accredited institution and who applies for admission to a Practitioner Teacher Program or other alternate program but does not pass the PPST or the content specialty examination of the PRAXIS required for admission to the program.	Teacher must successfully complete a minimum of six credit hours per year in the subject area(s) that he/she is attempting to pass on the PRAXIS; candidate must reapply for admission to a Practitioner Teacher Program or other alternate program.

		c. Individual who holds a minimum of a baccalaureate degree from a regionally-accredited institution and who is hired after the start of the Practitioner Teacher Program	Teacher must apply for admission to a Practitioner Teacher Program or other alternate program and pass the appropriate PRAXIS examinations required for admission to the program.
Out-of-Field Authorization to Teach A teacher may hold a one-year Out-of-Field Authorization to Teach, renewable annually, for a maximum of three years. If the teacher is actively pursuing certification in the field and LDE designates the certification area as one requiring extensive hours for completion, two additional years of renewability may be granted. These designated areas are: Academically Gifted, Early Interventionist, Hearing Impaired, Visually Impaired, and Significant Disabilities. One additional year of renewability may be granted for applicant pursuing Mild/Moderate certification.	District submits application to LDE; renewable annually for maximum of three years. The employing district superintendent must provide a signed statement certifying that "there is no regularly certified, competent, and suitable person available for the position" and that applicant is the best-qualified person available for the position.	a. Individual holds a Louisiana teaching certificate, but is teaching outside of the certified area.	Teacher must obtain a prescription/outline of course work required for add-on certification in the area of the teaching assignment. Teacher must successfully complete a minimum of six credit hours per year of courses that lead toward certification in the area in which he/she is teaching; or the secondary-certified teacher who is teaching out-of-field may opt to take and pass the required PRAXIS content specialty examination for the specific 7-12 academic certification area, if the area has been declared as a primary or secondary teaching focus area. The district must support a teacher's efforts in this area.
Temporary Employment Permit	Under condition (a) the district submits application to LDE; renewable annually for a period not to exceed three total years.	a. Individual meets all certification requirements, with the exception of passing all portions of the NTE examination, but scores within ten percent of the composite score required for passage of all exams. (Formerly classified as EP)	Superintendent and President of the school board to which the individual has applied for employment must submit a signed affidavit to the LDE stipulating that there is no other applicant who has met all of the certification requirements available for employment for a specific teaching position. Such permit shall be in effect for not more than one year, but may be renewed annually, twice. One can remain on this temporary certificate for a period not to exceed three years. Such renewal of the permit shall be accomplished in the same manner as the granting of the original permit. The granting of such emergency teaching permit shall not waive the requirement that the person successfully complete the exam. While employed on an emergency teaching permit, employment period does not count toward tenure.
	Under condition (b) the individual submits application to LDE; renewable annually for a period not to exceed three total years.	b. Individual meets all certification requirements, with the exception of passing one of the components of the PRAXIS, but has an aggregate score equal to or above the total required on all tests. (Formerly classified as TEP)	Temporary Employment Permits are issued at the request of individuals, who must submit all application materials required for issuance of a regular certificate to LDE. An individual can be re-issued a permit two times only if evidence is presented that the required test has been retaken within one year from the date the permit was last issued. One can remain on this temporary certificate for a period not to exceed three years.

Process for Renewing Lapsed Professional Certificates
Type C, B, and A Certificates and Level 1, 2, and 3 Certificates

Type C, Type B, and Type A certificates will lapse for disuse if the holder thereof allows a period of five consecutive calendar years to pass in which he is not a regularly employed educator for at least one semester (90 consecutive days).

Level 1, 2 and Level 3 professional certificates will lapse for disuse (a) if the holder thereof allows a period of five consecutive calendar years to pass in which he is not a regularly employed educator for at least one semester [90 consecutive days], or (b) if the holder fails to complete the required number of professional development hours during his employ.

Full reinstatement of a lapsed certificate shall be made only on evidence that the holder earned six semester hours (or equivalent) of resident, extension, correspondence, or online credit in courses approved by the Division of Teacher Certification and Higher Education or a dean of a Louisiana College of Education. The six semester credit hours must be earned during the five-year period immediately preceding reinstatement.
If the holder of a lapsed certificate has not earned the required six credit hours, the lapsed certificate may be reactivated (at the level that was attained prior to disuse) for a period of one year, during which time the holder of certificate is required to complete six semester credit hours of coursework and present evidence of successful completion to the Division of Teacher Certification and Higher Education. Failure to complete the necessary coursework during the one-year reactivation period will result in a lapsed certificate that cannot be reinstated until evidence of completed coursework is provided.

*A declination letter sent to a school district must be corrected within 10 working days. If the district does not comply with the request for additional information within the 10 days, the district must remove the teacher upon the 11th working day.

* * *

Weegie Peabody
Executive Director

0510#013

RULE

Board of Elementary and Secondary Education

Bulletin 996CLouisiana Standards for Approval of Teacher Education Programs
(LAC 28:XLV.1107 and 1109)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended *Bulletin 996CLouisiana Standards for Approval of Teacher Education Programs*, referenced in LAC 28:I.905.A. Proposed revisions to Bulletin 996 would incorporate both the Louisiana Reading Competencies and the Grade Level Expectations into existing policy. Each teacher preparation program seeking Louisiana State Board of Elementary and Secondary Education approval is required to incorporate and adhere to the NCATE standards and the NCATE accreditation process. Additionally, each Louisiana teacher preparation unit is required to address key state educational initiatives as identified and delineated in the Louisiana State Supplement for Teacher Preparation Program Approval, a component of *Bulletin 996CLouisiana Standards for Approval of Teacher Education Programs*.

This revision insures that those charged with recommending unit accreditation for Louisiana teacher education programs will evaluate programs for inclusion of both the Louisiana Reading Competencies and the Grade Level Expectations.

Title 28
EDUCATION
PART XLV. Bulletin 996CStandards for Approval of Teacher Education Programs
Chapter 11. The Components of Effective Teacher Preparation
Subchapter A. Standard ACCandidates Provide Effective Teaching for All Students

§1107. Curriculum

A. The teacher education curricula provide candidates at both the initial and advanced levels with knowledge and skills to effectively incorporate the Louisiana Content Standards and Grade Level Expectations in instructional delivery.

Unacceptable	Acceptable	Target
Candidates understand the basic components of the Louisiana Content Standards and Grade Level Expectations.	Candidates demonstrate knowledge of the Louisiana Content Standards and Grade Level Expectations in lessons for each content area they are preparing to teach.	Candidates implement instruction and assessment reflective of content standards, grade level expectations, local curricula, and each student's needs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1734 (August 2002), amended LR 30:2457 (November 2004), LR 31:2427 (October 2005).

§1109. Curriculum–Reading (Specifically but not Exclusively for K-3 Teachers)

A. The teacher education program provides candidates at both the initial and advanced levels with knowledge and skills in the Louisiana Reading Competencies and the curriculum process.

Unacceptable	Acceptable	Target
Candidates understand the components of the Louisiana Reading Competencies.	Candidates utilize the Louisiana Reading Competencies in K-12 classrooms.	Candidates effectively utilize the Louisiana Reading Competencies in K-12 classrooms to impact learning.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1734 (August 2002), amended LR 30:2457 (November 2004), LR 31:2427 (October 2005).

Weegie Peabody
Executive Director

0510#012

RULE

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Facility Name and Ownership/Operator Changes Process
(LAC 33:I.1901, 1903, 1905, 1907, 1909, and 1911; III.505, 517, and 521; V.321 and 4303; VII.517; and IX.2701, 2901, 2903, and 2905)(OS057)

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 Environmental Quality regulations, LAC 33:I.1901, 1903, 1905, 1907, 1909, and 1911; III.505, 517, and 521; V.321 and 4303; VII.517; and IX.2701, 2901, 2903, and 2905 (Log #OS057).

This Rule will provide a unified, streamlined process for name or ownership/operator changes at facilities under the purview of the air, LPDES, hazardous waste, and solid waste regulatory programs. The department's re-engineering resulted in the creation of a single entity to handle name or ownership/operator changes. The Governor's Environmental Task Force recognized that the regulatory processes for these changes were cumbersome for both the regulated community and the department's staff. Therefore, the task force recommended that the department create a streamlined process for all media. The project will occur in two stages. The first stage is being addressed in this Rule and deals with only permitted media facilities. The second stage will address hazardous and solid waste generators and other miscellaneous programs. The basis and rationale for this rule

are to allow a unified procedure for all media resulting in cleaner notification procedures for the regulated community.

This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33
ENVIRONMENTAL QUALITY
Part I. Office of the Secretary
Subpart 1. Department Administrative Procedures
Chapter 19. Facility Name and Ownership/Operator Changes Process

§1901. Applicability

A. This Chapter applies to name and ownership/operator changes at facilities that are under the purview of the air, water, hazardous waste, and solid waste regulatory programs. Written notifications of these changes shall be submitted to the department for facilities applying for or holding any air permits, Louisiana Pollutant Discharge Elimination System (LPDES) permits, hazardous waste permits, and solid waste permits. A name, ownership, and/or operator change will be considered a minor permitting action or administrative amendment.

B. When the ownership of a facility holding an LPDES permit changes and there is no change to the operator of that facility, a permit transfer is not required. Notification of the change of ownership is still required in accordance with LAC 33:I.1905.

C. The terms *administratively complete*, *administrative amendment*, *financial assurance*, and *minor modification* as used in this Chapter shall have the same meaning and intent as when used in LAC 33:Parts III, V, VII , and IX.

D. This Chapter does not supersede any otherwise applicable requirements addressing administrative amendments or modifications in the air, LPDES, hazardous waste, and solid waste programs, in particular, applicable MACT rules or acid rain program requirements.

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 31:2428 (October 2005).

§1903. Liability

A. The previous owner or operator retains responsibility for compliance with all permit terms and conditions until the permit has been transferred in accordance with this Chapter.

B. The previous owner or operator retains responsibility for compliance with the financial requirements until the new owner or operator has demonstrated that he or she is complying with the specified financial requirements of Title 33 of the Louisiana Administrative Code (e.g., LAC 33:V.Chapter 37, LAC 33:VII.727.A.1 and 2, and LAC 33:IX.Chapter 67).

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 31:2428 (October 2005).

§1905. Name Change

A. Changes in the name only of a facility or of its owner/operator shall be made with written notification to the Office of Environmental Services. The owner or operator shall submit a complete Name/Ownership/Operator Change Form (NOC-1 Form) prior to or no later than 45 days after the change. This form may be found on the department's website.

B. Within 30 days after receipt of the complete notification of a change of name of a facility or of its owner/operator, the administrative authority shall notify the owner/operator that the department has received and processed the name change. The effective date of the name change shall be the date indicated on the NOC-1 Form unless the administrative authority determines that a different date is appropriate, in which case the Office of Environmental Services shall notify the permit applicant of the actual effective date.

C. For permitted hazardous waste facilities, the permittee shall send a notice of the name change to all persons on the facility mailing list maintained by the administrative authority in accordance with LAC 33:V.717.A.5, and to the appropriate units of state and local government, as specified in LAC 33:V.717.A.2 and 4. This notification shall be made within 90 calendar days after the change is effective.

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 31:2428 (October 2005).

§1907. Change of Ownership/OperatorCNo Financial Assurance Required

A. The administrative authority may approve the transfer of a permit to a new owner or operator where no financial assurance is required, based on the presence of the following factors:

1. documentation clearly identifying the party who will be responsible for existing violations; and

2. evidence of managerial competence on the part of the new owner or operator in accordance with LAC 33:I.1701.

B. Changes in the ownership or operational control of a facility shall be made with written notification to the Office of Environmental Services. The new owner or operator shall submit a Name/Ownership/Operator Change Form (NOC-1 Form) prior to or no later than 45 days after the change. A written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the previous and new permittees shall also be submitted to the administrative authority. The agreement shall be attached to the NOC-1 Form. The department may initiate action to terminate or revoke an existing media permit for a failure to disclose a change of ownership or operational control within 45 days after the change.

C. Within 30 days after receipt of the complete notification of a change of the ownership or operational control of a facility, the administrative authority shall notify the previous and new owners/operators of the department's approval or disapproval of the transfer of the permit to the new owner or operator based on its evaluation of the factors set forth in Subsection A of this Section. The department will also notify EPA of changes in Title V permits within the same timeframe. The effective date of the permit transfer shall be the date indicated on the NOC-1 Form unless the administrative authority determines that a different date is appropriate, in which case the Office of Environmental

Services shall notify the permit applicant of the actual effective date.

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 31:2428 (October 2005).

§1909. Change of Ownership/OperatorCFinancial Assurance Required

A. The administrative authority may approve the transfer of a permit to a new owner or operator where financial assurance is required, based on the following factors:

1. assumption by the new owner or operator of liability for existing violations;

2. demonstration of compliance with financial responsibility requirements by the new owner or operator; and

3. evidence of managerial competence on the part of the new owner or operator in accordance with LAC 33:I.1701.

B. Changes in the ownership or operational control of a facility shall be made with written notification to the Office of Environmental Services. The new owner or operator shall submit a Name/Ownership/Operator Change Form (NOC-1 Form) prior to or no later than 45 days after the change. The department may initiate action to terminate or revoke an existing media permit for a failure to disclose a change of ownership or operational control within 45 days after the change. The following actions are also required to be completed in conjunction with the change of ownership/operator notification.

1. A written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the previous and new permittees shall be submitted to the administrative authority. The agreement shall be attached to the NOC-1 Form.

2. Permitted and interim status hazardous waste facilities shall also submit a revised Part I (i.e., Part A) permit application and Hazardous Waste Notification Form (HW-1 Form) in conjunction with the NOC-1 Form.

3. When a transfer of ownership or operational control occurs, the previous owner or operator shall comply with the applicable requirements of LAC 33:V.Chapter 37 (hazardous waste financial requirements), LAC 33:VII.727.A.1 and 2 (solid waste financial assurance requirements), and LAC 33:IX.Chapter 67 (water financial security requirements) until the new owner or operator has demonstrated that he or she is complying with the applicable requirements of LAC 33:V.Chapter 37, LAC 33:VII.727.A.1 and 2, and LAC 33:IX.Chapter 67.

C. The new owner or operator shall demonstrate compliance with the applicable requirements of LAC 33:V.Chapter 37, LAC 33:VII.727.A.1 and 2, and LAC 33:IX.Chapter 67 within six months of the date of the change of ownership or operational control of the facility. Upon adequate demonstration to the administrative authority by the new owner or operator of compliance with these financial assurance requirements, the administrative authority shall notify the previous owner or operator that he or she no longer needs to comply with the financial assurance requirements as of the date of demonstration.

D. Within 45 days after receipt of the complete notification of a change of ownership or operational control of a facility, the administrative authority shall notify the previous and new owners/operators of the department's approval or disapproval of the transfer of the permit to the new owner or operator based on its evaluation of the factors set forth in Subsection A of this Section. The effective date of the permit transfer shall be the date indicated on the NOC-1 Form unless the administrative authority determines that a different date is appropriate, in which case the Office of Environmental Services shall notify the permit applicant of the actual effective date.

E. For permitted hazardous waste facilities, the new permittee shall send a notice of the change of ownership or operational control to all persons on the facility mailing list maintained by the administrative authority in accordance with LAC 33:V.717.A.5, and to the appropriate units of state and local government, as specified in LAC 33:V.717.A.2 and 4. This notification shall be made within 90 calendar days after the administrative authority has provided a written response approving the transfer of the permit and the change has been put into effect.

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 31:2429 (October 2005).

§1911. Fees for Name and Ownership/Operator Changes

A. Notifications of name or ownership/operator changes at a facility shall be submitted by the new owner or operator with the appropriate fees. The fees listed below cover the cost of reviewing, evaluating, and processing a name or ownership/operator change that has occurred at the facility.

Name and Ownership/Operator Change Fees	
Program	**LAC Citation for Fee**
Air	LAC 33:III.223, Fee Number 2000
Hazardous Waste	LAC 33:V.5123.A
Solid Waste: Type I, I-A, II, and II-A facilities	LAC 33.VII.525.C (N/A for name change alone)
Solid Waste: Type III facilities or beneficial use facilities	LAC 33.VII.525.D (N/A for name change alone)
LPDES	LAC 33:IX.1309.D.4 (N/A for name change alone)

B. Method of Payment. All fee payments shall be made by check, draft, or money order payable to the Department of Environmental Quality and mailed to the department at the address provided on the NOC-1 Form.

C. Failure to Pay. Failure to pay the prescribed name change or ownership/operator change fee as provided herein shall result in the change request not being processed by the department.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 31:2429 (October 2005).

Part III. Air

Chapter 5. Permit Procedures

§505. Acid Rain Program Permitting Requirements

A. - O.1.d. ...

e. changes in the owners or operators, done in accordance with LAC 33:I.Chapter 19;

O.1.f. - S.6. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), LR 21:678 (July 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2446 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2429 (October 2005), LR 31:2436 (October 2005).

§517. Permit Applications and Submittal of Information

A. - F. ...

G. Change of ownership shall be done in accordance with LAC 33:I.Chapter 19.

H. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), amended LR 20:1375 (December 1994), amended by the Office of the Secretary, LR 22:344 (May 1996), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:405 (April 1997), LR 23:1677 (December 1997), amended by the Office of the Secretary, LR 25:661 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2448 (November 2000), amended by the Office of Environmental Assessment, LR 30:2021 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2430 (October 2005).

§521. Administrative Amendments

A. - A.2. ...

3. allows for a change in ownership at the source, in accordance with forms and guidance provided by the permitting authority and pursuant to LAC 33:I.Chapter 19;

A.4. - B.3. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), amended LR 20:1375 (December 1994), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2430 (October 2005).

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental QualityCHazardous Waste

Chapter 3. General Conditions for Treatment, Storage, and Disposal Facility Permits

§321. Modification of Permits

A. Any proposed major modification of a facility or a site, any change in wastes handled in either volume or composition, and any other change in the site, facility, or operations that materially deviates from a permit or materially increases danger to the public health or the environment must be reported in writing to the Office of Environmental Services, Water and Waste Permits Division, prior to such an occurrence and a permit modification must be obtained in accordance with the application, public notice, and permit requirements of this Chapter. Any operator or ownership change shall be made in accordance with LAC 33:I.Chapter 19.

B. - B.1. ...

2. Changes in the ownership or operational control of a facility shall be made in accordance with LAC 33:I.Chapter 19.

C. - C.1.a. ...

i. The permittee must notify the Office of Environmental Services, Water and Waste Permits Division, concerning the modification by certified mail or other means that establish proof of delivery within seven calendar days after the change is put into effect. This notice must specify the changes being made to permit conditions or supporting documents referenced by the permit and must explain why they are necessary. Along with the notice, the permittee must provide the applicable information required by LAC 33:V.515-533, 2707, and 3115.

1.a.ii. - 10.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 15:378 (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 (October 2005), LR 31:2454 (October 2005).

Chapter 43. Interim Status

§4303. Changes during Interim Status

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

4. changes in the ownership or operational control of a facility, which shall be done in accordance with LAC 33:I.Chapter 19;

A.5. - B.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 10:200 (March 1984), amended LR 10:496 (July 1984), LR 13:433 (August 1987), LR 15:378 (May 1989), LR 16:220 (March 1990), LR 16:614 (July 1990), LR 17:658 (July 1991), LR 18:1375 (December 1992), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 25:484 (March 1999), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2430 (October 2005).

Part VII. Solid Waste

Subpart 1. Solid Waste Regulations

Chapter 5. Solid Waste Management System

Subchapter B. Permit System for Facilities Classified for Upgrade or Closure

§517. Permit Modifications

A. - A.1.a.ii. ...

b. All notifications of proposed changes in ownership of a permit for a facility shall be done in accordance with LAC 33:I.Chapter 19.

2. - 4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2014.2.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, LR 25:661 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2520 (November 2000), amended by the Office of Environmental Assessment, LR 30:2033 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2430 (October 2005), LR 31:2490 (October 2005).

Part IX. Water Quality

Subpart 2. The Louisiana Pollutant Discharge Elimination System (LPDES) Program

Chapter 27. LPDES Permit Conditions

§2701. Conditions Applicable to All Permits

The following conditions apply to all LPDES permits. Additional conditions applicable to LPDES permits are in LAC 33:IX.2703. All conditions applicable to LPDES permits shall be incorporated into the permits either expressly or by reference. If incorporated by reference, a specific citation to these regulations (or the corresponding approved state regulations) must be given in the permit.

A. - L.2. ...

3. Transfers. This permit is not transferable to any person except after notice to the state administrative authority in accordance with LAC 33:I.Chapter 19. The state administrative authority may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the CWA or the LEQA. (See LAC 33:IX.2901; in some cases, modification or revocation and reissuance is mandatory.)

L.4. - N.4. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Water Pollution Control Division, LR 23:724 (June 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2553 (November 2000), LR 28:468 (March 2002), repromulgated LR 30:230 (February 2004), amended LR 30:1676 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2431 (October 2005), LR 31:2512 (October 2005).

Chapter 29. Transfer, Modification, Revocation and Reissuance, and Termination of LPDES Permits

§2901. Transfer of Permits

A. Transfers by Modification. A permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued (under LAC 33:IX.2903.A.2.b), or a minor modification has been made (under LAC 33:IX.2905 and in accordance with LAC 33:I.Chapter 19) to identify the new permittee and incorporate such other requirements as may be necessary under the CWA and the LEQA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Sections 2074(B)(3) and (4) and 2075.2.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:45 (January 2001), repromulgated LR 30:231 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2431 (October 2005).

§2903. Modification or Revocation and Reissuance of Permits

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

b. the state administrative authority has received notification in accordance with LAC 33:I.Chapter 19 (as required in the permit, see LAC 33:IX.2701.L.3) of a proposed transfer of the permit.

3. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:724 (June 1997), LR 23:1524 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2283 (October 2000), LR 27:45 (January 2001), LR 28:470 (March 2002), repromulgated LR 30:231 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2431 (October 2005).

§2905. Minor Modifications of Permits

A. - A.3. ...

4. allow for a change in ownership or operational control of a facility, in accordance with LAC 33:I.Chapter 19, where the state administrative authority determines that no other change in the permit is necessary;

5.a. - 7. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:46 (January 2001), repromulgated LR 30:231 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2431 (October 2005).

Herman Robinson, CPM
Executive Counsel

0510#030

RULE

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Organizational Changes Under New Administration
(LAC 33:I, III, V, VI, VII, IX, XI, and XV)(OS065)

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 Environmental Quality regulations, LAC 33:Parts I, III, V, VI, VII, IX, XI, and XV (Log #OS065). The sections amended in this Rule are as follows:

LAC 33:I.501, 907, 1109, 1111, 1113, 1117, 1307, 1505, 1701, 2005, 3917, 3919, 3923, 3925, 4701, 4703, 4705, 4711, 5707, and 6921;

LAC 33:III.211, 501, 504, 505, 507, 509, 510, 613, 918, 919, 1105, 1107, 1410, 1507, 2103, 2108, 2113, 2116, 2121, 2122, 2123, 2132, 2153, 2201, 2301, 2303, 2307, 2511,

2521, 2531, 2701, 2719, 2723, 2735, 2799, 2805, 2807, 2809, 2811, 3003, 5107, 5111, 5113, 5116, 5122, 5151, 5307, 5311, and 5911;

LAC 33:V.105, 109, 303, 309, 321, 323, 501, 520, 537, 565, 590, 708, 1105, 1504, 1505, 1513, 1527, 1715, 1737, 1739, 1745, 1747, 1913, 2227, 2231, 2237, 2239, 2241, 2245, 2246, 2247, 2253, 2271, 2273, 2508, 2707, 2711, 2719, 2803, 2805, 2903, 2906, 3005, 3007, 3009, 3103, 3115, 3317, 3319, 3321, 3503, 3505, 3511, 3513, 3517, 3523, 3525, 3527, 3707, 3711, 3715, 3717, 3719, 3841, 4029, 4043, 4045, 4065, 4083, 4107, 4201, 4301, 4320, 4381, 4387, 4391, 4393, 4395, 4403, 4407, 4411, 4413, 4437, 4449, 4451, 4462, 4472, 4474, 4489, 4512, 4522, 4534, and 5309;

LAC 33:VI.201, 303, 911, and 913;

LAC 33:VII.113, 301, 303, 305, 307, 311, 315, 503, 505, 509, 511, 513, 515, 517, 701, 709, 711, 713, 715, 717, 719, 721, 723, 725, 727, 909, 1109, 1303, 1305, 3001, 10307, 10513, 10515, 10517, 10519, 10523, 10525, 10531, 10533, 10535, and 10536;

LAC 33:IX.301, 303, 307, 309, 311, 315, 708, 905, 1117, 1121, 1507, 2109, 2111, 2115, 2119, 2123, 2125, 2501, 2511, 2515, 2521, 2523, 2525, 2529, 2701, 2703, 2709, 3115, 3117, 4505, 5709, 6113, 6117, 6121, 6123, 6125, 6135, 6507, 6703, 6901, 6905, 6907, and 7135;

LAC 33:XI.301, 303, 903, 1111, 1113, 1123, 1129, 1131, 1139, 1205, 1305, and 1309; and

LAC 33:XV.204, 205, 209, 211, 212, 213, 320, 321, 322, 324, 326, 328, 331, 332, 361, 390, 399.Appendix B, 430, 436, 438, 442, 461, 488, 490, 496, 499.Appendix D, 575, 577, 578, 579, 603, 608, 609, 704, 719, 737, 761, 803, 907, 911, 1016, 1017, 1103, 1104, 1303, 1309, 1314, 1325, 1331, 1332, 1333, 1407, 1408, 1410, 1417, 1418, 1420, 1515, 1516, 1707, 1711, 1755, 2014, 2017, 2022, 2506, 2507, and 2508.

There was a reorganization of the department under the new administration. This Rule revises references to the department's divisions in the regulations to reflect the new organizational structure of the department. The Rule also makes minor grammatical corrections and format changes to internal regulation references. This change is necessary to keep the regulations current in order to provide accurate information for the regulated community. The basis and rationale for this proposed Rule are to correct the division names cited in the regulations to correspond to the new or renamed divisions created when the department was reorganized.

This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33
ENVIRONMENTAL QUALITY
Part I. Office of the Secretary
Subpart 1. Departmental Administrative Procedures
Chapter 5. Confidential Information Regulations
§501. Scope

A. Department of Environmental Quality information and records obtained under the Louisiana Environmental Quality Act, or by any rule, regulation, order, license, registration, or permit term or condition adopted or issued thereunder, or by any investigation authorized thereby, shall be available to the public, unless confidentiality is requested in writing to the Office of the Secretary, Legal Affairs Division, and the information or records are determined by the department to require confidentiality.

B. - B.6. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2030.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 22:342 (May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2439 (November 2000), LR 30:742 (April 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2432 (October 2005).

Chapter 9. Petition for Rulemaking
§907. Content of a Rulemaking Petition

A. …

B. The petition shall be addressed to the Office of the Secretary, Legal Affairs Division.

C. - 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 the Secretary, LR 23:297 (March 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2439 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2432 (October 2005).

Chapter 11. Declaratory Rulings
§1109. Declaratory Rulings Officer

A. - B. …

C. The declaratory rulings officer shall have the authority to regulate all matters concerning a request for declaratory ruling and to issue the declaratory ruling after concurrence as to legal sufficiency by the Office of the Secretary, Legal Affairs Division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2050.10.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 23:1141 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2440 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2432 (October 2005).

§1111. Duty to Maintain List

A. The secretary shall maintain, in a place accessible to the public in the Office of the Secretary, Legal Affairs Division, a list of all petitions for declaratory rulings and declaratory rulings and an index to the list. The list shall identify the petitioner, the matter to be decided, and when applicable, the location of the activity or facility that is the subject of the petition. The list shall also include the date on which the petition is received, the date the secretary decides whether a declaratory ruling will be issued, the date the secretary sets for issuance of the ruling, the date the ruling issues, and the date of any request for modification or appeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2050.10.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 23:1141 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2440

(November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2432 (October 2005).

§1113. Declaratory Rulings Clerk

A. The administrative authority shall designate a person in the Office of the Secretary, Legal Affairs Division, to serve as the declaratory rulings clerk, who shall be the official custodian of declaratory rulings records. The clerk shall maintain these records separately from other records of the department.

B. - B.5. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2050.10.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 23:1142 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2440 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2433 (October 2005).

§1117. Petition Contents and Form

A. - A.9. …

B. A petition for declaratory ruling shall be filed with the Office of the Secretary, Legal Affairs Division, by either of the following methods:

1. …

2. United States Mail as certified mail, return receipt requested to Declaratory Rulings Clerk, Office of the Secretary, Legal Affairs Division.

C. - D. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2050.10.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 23:1142 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2440 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2433 (October 2005).

Chapter 13. Risk Evaluation/Corrective Action Program

§1307. Adoption by Reference

A. The document entitled, "Louisiana Department of Environmental Quality Risk Evaluation/Corrective Action Program (RECAP)," dated October 20, 2003, is hereby adopted and incorporated herein in its entirety. The RECAP document is available for purchase or inspection from 8 a.m. until 4:30 p.m., Monday through Friday, from the department's Office of the Secretary, Legal Affairs Division. For RECAP document availability at other locations, contact the department's Regulation Development Section. The RECAP document may also be reviewed on the Internet through the department's website.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2272.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:2244 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1264 (June 2000), LR 26:2441 (November 2000), LR 29:2057 (October 2003), amended by the Office of Environmental Assessment, LR 30:2020 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2433 (October 2005).

Chapter 15. Permit Review

§1505. Review of Permit Applications for New Facilities and Substantial Permit Modifications

A. - A.3.b. …

4. Within 30 days after receipt of a letter of completeness, the applicant shall publish a notice, provided by the department, of the completeness determination in a major local newspaper of general circulation and submit proof of publication to the Office of Environmental Services, Air Permits Division or Water and Waste Permits Division.

A.5. - E. …

F. Withdrawal of Permit Application

1. An applicant may voluntarily withdraw an application during the review process, without prejudice, provided notice of withdrawal is submitted to the Office of Environmental Services, Air Permits Division or Water and Waste Permits Division, in writing with the appropriate signatory authority, and:

1.a. - 3. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2022(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Legal Affairs and Enforcement, Enforcement and Regulatory Compliance Division, LR 19:487 (April 1993), repromulgated LR 19:742 (June 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2441 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2433 (October 2005).

Chapter 17. Permit Qualifications and Requirements

§1701. Requirements for Obtaining a Permit

A. - B.2. …

C. The applicant shall provide to the Office of Environmental Services, Air Permits Division or Water and Waste Permits Division, a list of the state(s) where he or she has federal or state environmental permits identical to, or of a similar nature to, the permit for which application is being made. This information shall be provided for all individuals, partnerships, corporations, or other entities who own a controlling interest (50 percent or more) in the company or who participate in the environmental management of the facility for an entity applying for a permit or an ownership interest.

D. In addition to providing the information required in Subsection C of this Section, the applicant shall submit a written statement to the Office of Environmental Services, Air Permits Division or Water and Waste Permits Division, as part of the permit application, to certify that:

D.1. - E. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014.2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 25:660 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2441 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2433 (October 2005).

Chapter 20. Records of Decision for Judicial Review

§2005. Responsibility for Assembly of Record of Decision

A. When the department is served with notice of an appeal or other request for judicial review, such notice shall be immediately forwarded to the department's Office of the Secretary, Legal Affairs Division, which shall be responsible for assembling a complete and legible copy of the record of decision and transmitting it to the court.

B. Upon receipt of such notice, the Legal Affairs Division shall promptly notify the decision maker and other

appropriate agency personnel, each of whom shall be responsible for promptly transmitting to the Legal Affairs Division, complete and legible copies of any portions of the record of decision that may be in his/her possession or control.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular, 2050.20.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 25:858 (May 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2441 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2433 (October 2005).

Subpart 2. Notification

Chapter 39. Notification Regulations and Procedures for Unauthorized Discharges

Subchapter C. Requirements for Prompt Notification

§3917. Notification Requirements for Unauthorized Discharges That Do Not Cause an Emergency Condition

A. In the event of an unauthorized discharge that exceeds a reportable quantity specified in Subchapter E of this Chapter but that does not cause an emergency condition, the discharger shall promptly notify the department within 24 hours after learning of the discharge. Notification should be made to the Office of Environmental Compliance, Emergency and Radiological Services Division, Single Point of Contact (SPOC), in accordance with LAC 33:I.3923.

B. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), 2060(H), 2076(D), 2183(I), 2194(C) and 2204(A).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), repromulgated LR 20:182 (February 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2443 (November 2000), repromulgated LR 27:38 (January 2001), amended LR 30:1668 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2434 (October 2005).

§3919. Notification Requirements for Unauthorized Discharges with Groundwater Contamination Impact

A. In the event that any unauthorized discharge results in the contamination of the groundwaters of the state or otherwise moves in, into, within, or on any saturated subsurface strata, the discharger shall promptly notify the Office of Environmental Compliance, Emergency and Radiological Services Division, SPOC, in accordance with LAC 33:I.3923.

B. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), 2076(D), 2183(I), and 2204(A).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), repealed LR 19:1022 (August 1993), repromulgated and amended LR 20:182 (February 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2443 (November 2000), LR 30:1668 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2434 (October 2005).

Subchapter D. Notification Procedures

§3923. Prompt Notification Procedures

A. Prompt notification shall be provided within a time frame not to exceed 24 hours and shall be given to the Office of Environmental Compliance, Emergency and Radiological Services Division, SPOC, as follows:

A.1. - C.7.d. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), 2060(H), 2076(D), 2183(I), 2194(C), and 2204(A).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:1668 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2434 (October 2005).

§3925. Written Notification Procedures

A. Written reports for any unauthorized discharge that requires notification under LAC 33:I.3915.A, 3917, or 3919 shall be submitted by the discharger to the Office of Environmental Compliance, Emergency and Radiological Services Division, SPOC, in accordance with this Section within seven calendar days after the notification required by LAC 33:I.3915.A, 3917, or 3919, unless otherwise provided for in a valid permit or other department regulation.

A.1. - B.16. …

C. Written notification reports shall be submitted to the Office of Environmental Compliance, Emergency and Radiological Services Division, SPOC, by mail or fax. The transmittal envelope and report or fax cover page and report should be clearly marked "UNAUTHORIZED DISCHARGE NOTIFICATION REPORT."

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), 2060(H), 2076(D), 2183(I), 2194(C) and 2204(A).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), LR 20:182 (February 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2443 (November 2000), LR 30:1669 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2434 (October 2005).

Subpart 3. Laboratory Accreditation

Chapter 47. Program Requirements

§4701. Accreditation Process

A. …

1. the submittal to the department's Office of Environmental Assessment, Laboratory Services Division, of a written request from the laboratory in the form of an application provided by the department, along with payment of all applicable fees;

A.2. - B. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:919 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1435 (July 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2434 (October 2005).

§4703. Application for Accreditation

A. …

B. An application for environmental laboratory accreditation shall be made in writing to the Office of Environmental Assessment, Laboratory Services Division. This application shall provide all requested information and be accompanied by the appropriate application fee. Information will include at least one satisfactory round of the most recent department-specified proficiency evaluation test results or an analytical data package for test categories

where no accessible proficiency tests exist. Supplemental information may be required.

C. - E. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:919 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1435 (July 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2434 (October 2005).

§4705. Categories of Accreditation

A. At the time of application each applicant must clearly identify both the fields of testing and the test categories for which accreditation is sought. A copy of the relevant test method documentation and the requisite equipment for the method must be available at the laboratory. A current list of approved methodologies for each parameter/analyte will be maintained by the Office of Environmental Assessment, Laboratory Services Division, and a copy of the list will become a part of the application package. In cases where the methodology used by the laboratory is not listed, the laboratory shall submit documentation that will verify that the results obtained from the method in use are equal to or better than those results obtained from the approved methodology. The department will review the data submitted by the laboratory and will notify the laboratory in writing within 60 calendar days if the method is acceptable or unacceptable as an alternate method of analysis.

B. - B.11. …

C. An accredited laboratory may request the addition of field(s) of testing and test category(ies) to its scope of accreditation at any time. Such a request must be submitted in writing to the Office of Environmental Assessment, Laboratory Services Division. Unless the previous on-site inspection can verify the competence of the laboratory to perform the additional tests, another on-site inspection may be required.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:919 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1435 (July 2000), LR 26:2443 (November 2000), repromulgated LR 27:38 (January 2001), amended by the Office of Environmental Assessment, LR 31:1570 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2435 (October 2005).

§4711. Proficiency Testing Participation

A. - E. …

F. Each participating laboratory shall authorize the proficiency test provider to release the results of the proficiency evaluation (PE) test to the Office of Environmental Assessment, Laboratory Services Division, at the same time that they are submitted to the laboratory. Every laboratory that receives test results that are "unacceptable" for a specific analyte must investigate and identify likely causes for these results, resolve any problems, and report such activity to the Office of Environmental Assessment, Laboratory Services Division, along with the submittal of corrective action proficiency sample test results. The laboratory shall report only the analytes for which corrective action was required.

G. - J. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:921 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1436 (July 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2435 (October 2005).

Chapter 57. Maintenance of Accreditation

§5707. Changes in Laboratory Operation

A. Changes in laboratory name, ownership, location, personnel, facilities, methodology, or any factors significantly affecting the performance of analyses for which the laboratory was originally accredited shall be reported to the Office of Environmental Assessment, Laboratory Services Division, within 30 days.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:933 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2444 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2435 (October 2005).

Subpart 4. Emergency Response Regulations

Chapter 69. Emergency Response Regulations

§6921. Reporting Requirements

A. No later than 30 days after material from the cleanup and/or abatement of an off-site emergency condition is removed from an emergency response storage facility, the owner or operator of the facility shall submit a written report detailing the ultimate disposition of the material, by mail or fax to the Office of Environmental Compliance, Emergency and Radiological Services Division, Single Point of Contact (SPOC). The report shall be clearly marked "WASTE DISPOSITION REPORT." The report shall reference the department-issued incident number. Other information in the report may include location and date of the emergency incident, name and address of the company transporting the pollutant that resulted from the emergency incident, name and location of the facility where the pollutant is/was stored, and name and location of the facility accepting the pollutant for disposal, recycling, or reuse.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1), (14), and (15).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 22:979 (October 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2444 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2435 (October 2005).

Part III. Air

Chapter 2. Rules and Regulations for the Fee System of the Air Quality Control Programs

§211. Methodology

A. - B.9. …

10. When a permanent shutdown occurs and a company properly notifies the Office of Environmental Services, Air Permits Division, by official change in the Emission Inventory Questionnaire (EIQ) and permit, then the maintenance fee would be dropped for that shutdown portion of the process/plant. This fee reduction or cancellation shall apply only in the fiscal years in which the shutdown portion of the plant or process did not operate at all. The EIQ and

permit shall also need to be changed to delete the emissions from the shutdown portion of the plant or process before the start of the fiscal year in which the fee would have been charged.

11. - 15.b. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:611 (September 1988), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1205 (December 1991), LR 18:706 (July 1992), LR 19:1419 (November 1993), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:17 (January 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:264 (February 2000), LR 26:2444 (November 2000), LR 29:2776 (December 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2435 (October 2005).

Chapter 5. Permit Procedures

§501. Scope and Applicability

A. - B.7. …

C. Scope

1. 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, Air Permits Division, 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. - 10. …

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 Department of Environmental Quality, 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).

§504. Nonattainment New Source Review Procedures

A. - B.5. …

C. Source Information. The owner or operator of a proposed major stationary source or major modification shall submit all information necessary to the Office of Environmental Services, Air Permits Division, in order to perform any analysis or make any determination required under this regulation. Information shall include, but is not limited to:

C.1. - F.6. …

7. The owner or operator desiring to utilize emission reductions as an offset shall submit to the Office of Environmental Services, Air Permits Division, the following information:

F.7.a. - Table 1, Footnote PM_{10}. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:176 (February 1993), repromulgated LR 19:486 (April 1993), amended LR 19:1420 (November 1993), LR 21:1332 (December 1995), LR 23:197 (February 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2445 (November 2000), LR 27:2225 (December 2001), LR 30:752 (April 2004), amended by the Office of Environmental Assessment, LR 30:2801 (December 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2436 (October 2005).

§505. Acid Rain Program Permitting Requirements

A. - B.1. …

2. Exemption. The designated representative, authorized in accordance with 40 CFR Part 72, Subpart B, of a source that includes a unit under Paragraph B.1 of this Section may petition the Office of Environmental Services, Air Permits Division, for a written exemption or to renew a written exemption for the unit from certain requirements of the Acid Rain Program. The petition shall contain the following elements:

2.a. - 4.c. …

i. notwithstanding Paragraphs D.2 and 3, the designated representative of the source that includes the unit shall submit a complete acid rain permit application to the Office of Environmental Services, Air Permits Division, on the latter of January 1, 1998, or the date the unit is no longer exempted under this Section; and

B.4.c.ii. - C.2.a. …

b. A petition under this Subsection shall be submitted to the Office of Environmental Services, Air Permits Division, on or before:

2.b.i. - 4.c. …

D. Requirement to Apply

1. Duty to Apply. The designated representative of any source with an affected unit shall submit a complete acid rain permit application to the Office of Environmental Services, Air Permits Division, by the applicable deadline in Paragraphs D.2 and 3 of this Section and the owners and operators shall not operate the source without a permit that states its Acid Rain Program requirements

2. - 2.h. …

3. Duty to Reapply. The designated representative shall submit a complete acid rain permit application to the Office of Environmental Services, Air Permits Division, for each source with an affected unit at least six months prior to the expiration of an existing acid rain permit governing the unit during Phase II, or such longer time as may be approved under 40 CFR Part 70 that ensures that the term of the existing permit will not expire before the effective date of the permit for which the application is submitted.

4. Four copies of all permit applications shall be submitted to the Office of Environmental Services, Air Permits Division.

D.5. - G.3. …

a. To activate a conditionally-approved acid rain compliance option, the designated representative shall notify the Office of Environmental Services, Air Permits Division, in writing that the conditionally-approved compliance option will actually be pursued beginning January 1 of a specified year. If the conditionally-approved compliance option includes a plan described in Subparagraph G.2.a of this Section, the designated representative of each source governed by the plan shall sign and certify the notification. Such notification shall be subject to the limitations on

activation under Subsections G and H of this Section and regulations implementing Section 407 of the Clean Air Act.

b. - d. …

4. Termination of Compliance Option

a. The designated representative for a unit may terminate an acid rain compliance option by notifying the Office of Environmental Services, Air Permits Division, in writing that an approved compliance option will be terminated beginning January 1 of a specified year. If the compliance option includes a plan described in Subparagraph G.2.a of this Section, the designated representative for each source governed by the plan shall sign and certify the notification. Such notification shall be subject to the limitations on termination under Subsection H of this Section and regulations implementing Section 407 of the Clean Air Act.

G.4.b. - S.6. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), LR 21:678 (July 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2446 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2429 (October 2005), LR 31:2436 (October 2005).

§507. Part 70 Operating Permits Program

A. - C.2. …

3. Newly Regulated Sources. The owner or operator of any source that becomes subject to the requirements of this Section after the effective date of the Louisiana Part 70 program due to regulations promulgated by the administrator or by the Department of Environmental Quality shall submit an application to the Office of Environmental Services, Air Permits Division, in accordance with the requirements established by the applicable regulation. In no case shall the required application be submitted later than one year from the date on which the source first becomes subject to this Section.

D. - H.3. …

4. a requirement for progress reports to be submitted to the Office of Environmental Compliance, Enforcement Division, at least semiannually, or at a more frequent period if specified in the applicable requirement. Such progress reports shall contain the following:

4.a. - 5.c.v. …

d. a requirement that all compliance certifications be submitted to the administrator as well as to the Office of Environmental Compliance, Enforcement Division; and

H.5.e. - J.5. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011, 2023, 2024, 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 19:1420 (November 1993), LR 20:1375 (December 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2447 (November 2000), LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 29:698 (May 2003), LR 30:1008 (May 2004), amended by the Office of Environmental Assessment, LR 31:1061 (May 2005), LR 31:1568 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2437 (October 2005).

§509. Prevention of Significant Deterioration

A. - O.2. …

3. Where the air quality impact analysis required under this Section indicates that the issuance of a permit for any major stationary source or major modification would result in the consumption of more than 50 percent of any available annual increment or 80 percent of any available short term increment, the applicant may be required by the administrative authority to submit to the Office of Environmental Services, Air Permits Division, a report covering the following factors:

O.3.a. - S.4. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:348 (June 1988), LR 16:613 (July 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:478 (May 1991), LR 21:170 (February 1995), LR 22:339 (May 1996), LR 23:1677 (December 1997), LR 24:654 (April 1998), LR 24:1284 (July 1998), repromulgated LR 25:259 (February 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2447 (November 2000), LR 27:2234 (December 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2437 (October 2005).

§510. New Emissions Sources and Major Modifications in Specified Parishes

A. - B.1.e. …

2. Source Information. The owner or operator of an affected emissions unit, as identified in Subparagraph B.1.b of this Section, shall submit all information necessary to the Office of Environmental Services, Air Permits Division, in order to perform any analysis or make any determination required under this regulation. Information shall include, but is not limited to:

B.2.a. - C.1.d. …

2. Source Information. The owner or operator desiring to utilize emission reductions as an offset shall submit to the Office of Environmental Services, Air Permits Division, the following information:

C.2.a. - Table 1, Footnote NO_x. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:2234 (December 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2437 (October 2005).

Chapter 6. Regulations on Control of Emissions through the Use of Emission Reduction Credits Banking

§613. ERC Bank Recordkeeping and Reporting Requirements

A. - B.1. …

2. An annual report summarizing all records required by Subsection A of this Section shall be submitted to the department by March 31 of each year. This submittal shall be certified as specified in Subsection C of this Section and submitted to the Office of Environmental Services, Air Permits Division, in a format specified by the department.

B.3. - C. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:877 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1622 (September 1999), LR 26:486 (March 2000), LR 26:2449 (November 2000), LR 28:303 (February 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2437 (October 2005).

Chapter 9. General Regulations on Control of Emissions and Emission Standards

§918. Recordkeeping and Annual Reporting

A. Data for emissions reports shall be collected annually. These reports are to be submitted to the Office of Environmental Assessment, Air Quality Assessment Division, by March 31 of each year (for the period January 1 to December 31 of the previous year) unless otherwise directed by the department. The report shall include all data applicable to the emissions source or sources as required under LAC 33:III.919.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:339 (May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2450 (November 2000), LR 29:2776 (December 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2438 (October 2005).

§919. Emissions Inventory

Emissions inventory data shall be submitted to the department on magnetic media in the format specified by the Office of Environmental Assessment, Air Quality Assessment Division. *Facilities* are defined as all emissions points under common control on contiguous property. *Emissions point* is defined as the source of emissions that should have a Source Classification Code (SCC). Detailed instructions are provided, on an annual basis, for completing and submitting emissions inventories. The state point source emissions inventory will be compiled from the emissions inventories submitted in accordance with this Section from the facilities that meet the criteria for applicability in Subsection A of this Section. The state area source, non-road and on-road mobile source, and biogenic emissions inventories are compiled by the department from data that may be requested from other federal, state, or local agencies or other private entities.

A. Applicability. The owner or operator of the following facilities shall submit annual emissions inventories to the Office of Environmental Assessment, Air Quality Assessment Division. The inventory shall include all air pollutants for which a National Ambient Air Quality Standard (NAAQS) has been issued and all NAAQS precursor pollutants.

A.1. – F. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:184 (February 1993), repromulgated LR 19:485 (April 1993), amended LR 19:1418 (November 1993), LR 20:1101 (October 1994), LR 22:339 (May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2450 (November 2000), LR 29:2776 (December 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2438 (October 2005).

Chapter 11. Control of Emissions of Smoke

§1105. Smoke from Flaring Shall Not Exceed 20 Percent Opacity

A. The emission of smoke from a flare or other similar device used for burning in connection with pressure valve releases for control over process upsets shall be controlled so that the shade or appearance of the emission does not exceed 20 percent opacity (LAC 33:III.1503.D.2, Table 4) for a combined total of six hours in any 10 consecutive days. If it appears the emergency cannot be controlled in six hours, the Office of Environmental Compliance, Emergency and Radiological Services Division, Single Point of Contact (SPOC), shall be notified by the emitter in accordance with LAC 33:I.3923 as soon as possible after the start of the upset period. Such notification does not imply the administrative authority will automatically grant an exemption to the source(s) of excessive emissions.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 25:656 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2450 (November 2000), LR 30:1671 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2438 (October 2005).

§1107. Exemptions

A. Exemptions from the provisions of LAC 33:III.1105 may be granted by the administrative authority during start-up and shutdown periods if the flaring was not the result of failure to maintain or repair equipment. A report in writing, explaining the conditions and duration of the start-up or shutdown and listing the steps necessary to remedy, prevent and limit the excess emission, shall be submitted to the Office of Environmental Compliance, Emergency and Radiological Services Division, SPOC, within seven calendar days of the occurrence. In addition, the flaring must be minimized and no ambient air quality standard may be jeopardized.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2451 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2438 (October 2005).

Chapter 14. Conformity

Subchapter A. Determining Conformity of General Federal Actions to State or Federal Implementation Plans

§1410. Criteria for Determining Conformity of General Federal Actions

A. - A.5.a. …

i. the total of direct and indirect emissions from the action (or portion thereof) is determined and documented by the department to result in a level of emissions that,

together with all other emissions in the nonattainment or maintenance area, would not exceed the emissions budgets specified in the applicable SIP. As a matter of policy, should the department make such determination or commitment, the federal agency must provide to the Office of Environmental Assessment, Air Quality Assessment Division, information on all known projects or other actions that may affect air quality or emissions in any area to which this rule is applicable, regardless of whether such project or action is determined to be subject to this rule under LAC 33:III.1405. The department may charge the federal agency requesting such determination a reasonable fee based on the number of manhours required to perform and document the determination; or

A.5.a.ii. - D. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1274 (November 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2451 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2438 (October 2005).

Chapter 15. Emission Standards for Sulfur Dioxide

§1507. Exceptions

A. Start-Up Provisions

1. A four-hour (continuous) start-up exemption from the emission limitations of LAC 33:III.1503.A may be authorized by the administrative authority for plants not subject to 40 CFR 60.82 and 60.83, as incorporated by reference in LAC 33:III.Chapter 30, that have been shut down. A report in writing explaining the conditions and duration of the start-up and listing the steps necessary to remedy, prevent, and limit the excess emission shall be submitted to the Office of Environmental Compliance, Emergency and Radiological Services Division, Single Point of Contact (SPOC), within seven calendar days of the occurrence.

2. …

B. On-Line Operating Adjustments

1. A four-hour (continuous) exemption from emission limitations of LAC 33:III.1503.A may be extended by the administrative authority to plants not subject to 40 CFR 60.82 and 60.83, as incorporated by reference in LAC 33:III.Chapter 30, where upsets have caused excessive emissions and on-line operating changes will eliminate a temporary condition. A report, in writing, explaining the conditions and duration of the upset and listing the steps necessary to remedy, prevent, and limit the excess emission shall be submitted to the Office of Environmental Compliance, Emergency and Radiological Services Division, SPOC, within seven calendar days of the occurrence.

B.2. - C. …

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

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

Chapter 21. Control of Emission of Organic Compounds

Subchapter A. General

§2103. Storage of Volatile Organic Compounds

A. - D.4.…

a. Controls for nonslotted guide poles and stilling wells shall include pole wiper and gasketing between the well and sliding cover. Controls for slotted guide poles shall include a float with wiper, pole wiper, and gasketing between the well and sliding cover. The description of the method of control and supporting calculations based upon the Addendum to American Petroleum Institute Publication Number 2517 Evaporative Loss from External Floating Roof Tanks, (dated May 1994) shall be submitted to the Office of Environmental Assessment, Air Quality Assessment Division, for approval prior to installation.

D.4.b. - J. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 15:1065 (December 1989), repromulgated LR 16:27 (January 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:360 (April 1991), LR 18:1121 (October 1992), LR 20:1376 (December 1994), LR 21:1223 (November 1995), repromulgated LR 21:1333 (December 1995), amended LR 22:453 (June 1996), LR 22:1212 (December 1996), LR 24:20 (January 1998), LR 24:2242 (December 1998), LR 25:657 (April 1999), LR 25:852 (May 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2452 (November 2000), LR 28:1763 (August 2002), LR 30:1671 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2439 (October 2005).

§2108. Marine Vapor Recovery

A. - E.5. …

F. Reporting and Recordkeeping

1. The results of any testing done in accordance with LAC 33:III.2108.E shall be reported to the Office of Environmental Assessment, Air Quality Assessment Division, within 45 days of the test.

F.2. - H.2. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 14:704 (October 1988), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:959 (November 1990), LR 22:1212 (December 1996), LR 23:1678 (December 1997), LR 24:20 (January 1998), LR 24:1285 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2452 (November 2000), LR 30:745 (April 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2439 (October 2005).

§2113. Housekeeping

A. - A.3.…

4. Each facility shall develop a written plan for housekeeping and maintenance that places emphasis on the prevention or reduction of volatile organic compound emissions from the facility. This plan shall be submitted to the Office of Environmental Services, Air Permits Division,

upon request. A copy shall be kept at the facility, if practical, or at an alternate site approved by the department.

5. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 16:118 (February 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:361 (April 1991), LR 25:852 (May 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2452 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2439 (October 2005).

§2116. Glycol Dehydrators

A. - F.4.b. …

G. Reporting Requirements

1. The owner or operator of a facility shall submit to the Office of Environmental Services, Air Permits Division, a permit application after installation of controls unless exempt from permitting pursuant to LAC 33:III.Chapter 5.

2. If no permit is required pursuant to LAC 33:III.Chapter 5, the owner or operator of a facility shall submit to the Office of Environmental Services, Air Permits Division, a new or updated emission inventory questionnaire after installation of controls.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1107 (October 1994), repromulgated, LR 20:1279 (November 1994), amended LR 21:941 (September 1995), LR 22:1212 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2452 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2440 (October 2005).

§2121. Fugitive Emission Control

A. - E.3. …

F. Reporting Requirements. The operator of the affected facility shall submit to the Office of Environmental Assessment, Air Quality Assessment Division, a report semiannually containing the information below for each calendar quarter during the reporting period. The reports are due by the last day of the month (January and July) following the monitoring period or by a date approved by the department. The reports shall include the following information for each quarter of the reporting period:

F.1. - G.Liquid Service. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:959 (November 1990), LR 17:654 (July 1991), LR 21:1330 (December 1995), LR 22:1128 (November 1996), LR 22:1212 (December 1996), LR 24:22 (January 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1433 (July 2000), LR 26:2452 (November 2000), LR 30:1659 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2440 (October 2005).

§2122. Fugitive Emission Control for Ozone Nonattainment Areas and Specified Parishes

A. - F.3. …

G. Reporting Requirements. The operator of the affected facility shall submit a report semiannually to the Office of Environmental Assessment, Air Quality Assessment Division, containing the information below for each calendar quarter during the reporting period. The reports are due by the last day of the month (January and July) following the monitoring period or by a date approved by the department. The reports shall include the following information for each quarter of the reporting period:

1. - 6. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1102 (October 1994), repromulgated LR 20:1279 (November 1994), amended LR 22:1129 (November 1996), LR 22:1212 (December 1996), repromulgated LR 23:197 (February 1997), amended LR 23:1678 (December 1997), LR 24:22 (January 1998), LR 24:1285 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2453 (November 2000), LR 28:1764 (August 2002), LR 30:1660 (August 2004), repromulgated by the Office of Environmental Assessment, LR 30:2030 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2440 (October 2005).

Subchapter B. Organic Solvents

§2123. Organic Solvents

A. - C, Table. …

D. Control Techniques

1. If add-on controls such as incinerators or vapor recovery systems are used to comply with the emission limitation requirements, in terms of pounds per gallon of solids as applied (determined in accordance with Paragraph D.8 of this Section), the volatile organic compound capture and abatement system shall be at least 80 percent efficient overall. All surface coating facilities shall submit to the Office of Environmental Services, Air Permits Division, for approval, design data for each capture system and emission control device that is proposed for use. The effectiveness of the capture system (i.e., capture efficiency) shall be determined using the procedure specified in Paragraph E.6 of this Section.

D.2. - H.…

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 16:119 (February 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:654 (July 1991), LR 18:1122 (October 1992), LR 22:340 (May 1996), LR 22:1212 (December 1996), LR 23:1678 (December 1997), LR 24:23 (January 1998), LR 24:1285 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1240 (July 1999), LR 26:2453 (November 2000), LR 28:1765 (August 2002), LR 30:746 (April 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2440 (October 2005).

Subchapter F. Gasoline Handling

§2132. Stage II Vapor Recovery Systems for Control of Vehicle Refueling Emissions at Gasoline Dispensing Facilities

A. - B.5.…

6. The regulated facility shall submit the following application information to the Office of Environmental Compliance, Surveillance Division, prior to installation of the Stage II Vapor Recovery System:

6.a. - 7.…

8. Upon request by the Department of Environmental Quality, the owner or operator of a facility that claims to be exempt from the requirements of this Section shall submit supporting records to the Office of Environmental Compliance, Surveillance Division, within 30 calendar days from the date of the request. The Department of Environmental Quality shall make a final determination regarding the exemption status of a facility.

C. - C.2. …

D. Testing

1. The owner/operator of the facility shall have the installed vapor recovery equipment tested prior to the start-up of the facility. The owner or operator shall notify the Office of Environmental Compliance, Surveillance Division, at least five calendar days in advance of the scheduled date of testing. Testing must be performed by a contractor that is certified with the Department of Environmental Quality. Compliance with the emission specification for Stage II equipment shall be demonstrated by passing the following required tests or equivalent for each type of system:

1.a. - 2.…

3. The department reserves the right to confirm the results of the aforementioned testing at its discretion and at any time. Within 30 days after installation or major system modification of a vapor recovery system, the owner or operator of the facility shall submit to the Office of Environmental Compliance, Surveillance Division, the date of completion of the installation or major system modification of a vapor recovery system and the results of all functional testing requirements.

E. - I. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 18:1254 (November 1992), repromulgated LR 19:46 (January 1993), amended LR 23:1682 (December 1997), LR 24:25 (January 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2453 (November 2000), LR 29:558 (April 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2440 (October 2005).

Subchapter M. Limiting Volatile Organic Compound (VOC) Emissions From Industrial Wastewater

§2153. Limiting VOC Emissions from Industrial Wastewater

A. - G.4.a. …

b. in order to maintain exemption status under this Subsection, the owner or operator shall submit an annual report no later than March 31 of each year, starting in 1997, to the Office of Environmental Assessment, Air Quality Assessment Division, which demonstrates that the overall control of VOC emissions at the affected source category from which wastewater is generated during the preceding calendar year is at least 90 percent less than the 1990 baseline emissions inventory. At a minimum, the report shall include the EPN; the PIN; the throughput of wastewater from affected source categories; a plot plan showing the location, EPN, and PIN associated with a wastewater storage, handling, transfer, or treatment facility; and the VOC emission rates for the preceding calendar year. The emission rates for the preceding calendar year shall be calculated in a manner consistent with the 1990 baseline emissions inventory; and

c. all representations in initial control plans and annual reports become enforceable conditions. It shall be unlawful for any person to vary from such representations if the variation will cause a change in the identity of the specific emission sources being controlled or the method of control of emissions, unless the owner or operator of the wastewater component submits a revised control plan to the Office of Environmental Assessment, Air Quality Assessment Division, within 30 days of the change. All control plans and reports shall include documentation that the overall reduction of VOC emissions from wastewater at the affected source categories continues to be at least 90 percent less than the 1990 baseline emissions inventory. The emission rates shall be calculated in a manner consistent with the 1990 baseline emissions inventory.

5. …

a. each request for an exemption determination shall be submitted to the Office of Environmental Assessment, Air Quality Assessment Division. Each request shall demonstrate that the overall control of VOC emissions from wastewater at the affected source categories will be at least 80 percent less than the 1990 baseline emissions inventory. The request shall include the applicable EPN; the PIN; the calendar year throughput of wastewater from affected source categories; the VOC emission rates; and a plot plan showing the location, EPN, and PIN associated with a wastewater storage, handling, transfer, or treatment facility. The emission rates shall be calculated in a manner consistent with the 1990 baseline emissions inventory;

b. …

c. all representations in initial control plans and annual reports become enforceable conditions. It shall be unlawful for any person to vary from such representations if the variation will cause a change in the identity of the specific emission sources being controlled or the method of control of emissions unless the owner or operator of the wastewater component submits a revised control plan to the Office of Environmental Assessment, Air Quality Assessment Division, within 30 days of the change. All control plans and reports shall include documentation that the overall reduction of VOC emissions at the plant from wastewater affected source categories continues to be at least 80 percent less than the 1990 baseline emissions inventory.

G.6. - I. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:936 (September 1995), amended LR 22:1212 (December 1996), LR 24:26 (January 1998), LR 25:850 (May 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2453 (November 2000), LR 28:1765 (August 2002), LR 30:747 (April 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2441 (October 2005).

Chapter 22. Control of Emissions of Nitrogen Oxides (NO_x)

§2201. Affected Facilities in the Baton Rouge Nonattainment Area and the Region of Influence

A. - F.7. …

a. the facility designation, as indicated by the identification number, submitted to the Office of Environmental Services, Air Permits Division;

F.7.b. - J.2.…

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Environmental Assessment, Environmental Planning Division, LR 28:290 (February 2002), repromulgated LR 28:451 (March 2002), amended LR 28:1578 (July 2002), LR 30:1170 (June 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2441 (October 2005).

Chapter 23. Control of Emissions for Specific Industries[1]

[1] Regulation of emissions of volatile organic compounds for certain industries are presented in Chapter 21.

Subchapter A. Chemical Woodpulping Industry

§2301. Control of Emissions from the Chemical Woodpulping Industry

A. - D.4.…

a. Compliance. Owner or operators shall conduct source tests of recovery furnaces pursuant to the provisions in LAC 33:III.1503.D.2, Table 4, to confirm particulate emissions are less than that specified in Paragraph D.1 of this Section. The results shall be submitted to the Office of Environmental Assessment, Air Quality Assessment Division, as specified in LAC 33:III.919 and 918. The testing should be conducted as follows:

i. – ii. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1564 (December 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2454 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2442 (October 2005).

Subchapter B. Aluminum Plants

§2303. Standards for Horizontal Stud Soderberg Primary Aluminum Plants and Prebake Primary Aluminum Plants

A. – D.4. …

E. Monitoring. Each horizontal stud Soderberg process primary aluminum plant and prebake process primary aluminum plant shall submit a detailed monitoring program subject to revision and approval by the Office of Environmental Assessment, Air Quality Assessment Division. The program shall include regularly scheduled monitoring for emissions of total particulates as well as ambient air sampling for suspended particulates.

[NOTE: Measurement of Concentrations. The methods listed in LAC 33:III.711.C, Table 2 and LAC 33:III.1503.D.2, Table 4, or such equivalent methods as may be approved by the department, shall be utilized to determine these particulate concentrations.]

F. - F.1.d. …

2. Every horizontal stud Soderberg process primary aluminum plant and prebake process primary aluminum plant shall furnish, upon request to the department, such other data as the administrative authority may require to evaluate the plant's emission control program. Such plants shall immediately report any unauthorized emissions of any air contaminants to the Office of Environmental Compliance, Emergency and Radiological Services Division, Single Point of Contact (SPOC), in accordance with LAC 33:I.3923.

G. - G.3. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2455 (November 2000), LR 30:1672 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2442 (October 2005).

Subchapter D. Nitric Acid Industry

§2307. Emission Standards for the Nitric Acid Industry

A. - B. …

C. Exceptions

1. Start-up Provisions

a. A four-hour start-up exemption from emission regulations may be authorized by the administrative authority for plants not subject to 40 CFR Part 60, Subpart G, as incorporated by reference in LAC 33:III.Chapter 30, which have been shut down. It is recognized that existing nitrogen oxide abatement equipment is effective only at normal operating temperatures. This provision allows the necessary time to bring up a facility from a cold start to near steady state condition. A report, in writing, explaining the conditions and duration of the start-up and listing the steps necessary to remedy, prevent, and limit the excess emissions, shall be submitted to the Office of Environmental Compliance, Emergency and Radiological Services Division, SPOC, within seven calendar days of the occurrence using the procedures provided in LAC 33:I.3925.

b. …

2. On-Line Operating Adjustments

a. A four-hour exemption from emission regulations may be extended by the administrative authority to plants not subject to 40 CFR Part 60, Subpart G, as incorporated by reference in LAC 33:III.Chapter 30, where upsets have caused excessive emissions and on-line operating changes will eliminate a temporary condition. A report, in writing, explaining the conditions and duration of the upset and listing the steps necessary to remedy, prevent, and limit the excess emissions shall be submitted to the Office of Environmental Compliance, Emergency and Radiological Services Division, SPOC, within seven calendar days of the occurrence using the procedures provided in LAC 33:I.3925.

C.2.b. - H.2. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1680 (December 1997), LR 24:1286 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2455 (November 2000), LR 30:1672 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2442 (October 2005).

Chapter 25. Miscellaneous Incineration Rules

Subchapter B. Biomedical Waste Incinerators

§2511. Standards of Performance for Biomedical Waste Incinerators

A. - B.Type IV Waste. …

C. Registration

1. Within 90 days after adoption of these regulations, all facilities operating incinerators designed or operated for the purpose of burning potentially infectious medical waste, shall submit a supplemental incinerator data form (SID-1) to the Office of Environmental Compliance, Emergency and Radiological Services Division, Single Point of Contact (SPOC).

C.2. – E.6.e. …

7. A copy of all monitoring and tests results shall be submitted to the Office of Environmental Assessment, Air Quality Assessment Division, for review and approval within 45 days of completion of testing.

F. - K. …

L. Recordkeeping/Reporting. The owner or operator of any BWI shall keep a daily record of the hours the unit was in operation and the amount of waste incinerated. A separate record shall be kept of all chemotherapeutic waste incinerated that is not listed under the Resource Conservation and Recovery Act, 40 CFR 261.33(f). This record shall show the name of the material, date and time incinerated, and amount burned. Records shall be submitted to the Office of Environmental Compliance, Surveillance Division, by March 31 for the previous calendar year.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1098 (October 1994), amended LR 21:1081 (October 1995), LR 22:1212 (December 1996), LR 23:1680 (December 1997), LR 24:1286 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2455 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2442 (October 2005).

Subchapter C. Refuse Incinerators

§2521. Refuse Incinerators

A. - F.9.e. …

10. A copy of all monitoring and tests results shall be submitted to the Department of Environmental Quality, Office of Environmental Assessment, Air Quality Assessment Division, for review and approval within 45 days of completion of testing.

G. - H. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1100 (October 1994), amended LR 22:1212 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2456 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2443 (October 2005).

Subchapter D. Crematories

§2531. Standards of Performance for Crematories

A. - I.1.f. …

2. A copy of all test results shall be submitted to the Department of Environmental Quality, Office of Environmental Assessment, Air Quality Assessment Division, for review and approval within 45 days of completion of testing.

J. - J.1.d. …

2. The owner/operator shall provide the Office of Environmental Assessment, Air Quality Assessment Division, at least 30 days prior notice of any emission test to afford the department the opportunity to conduct a pretest conference and to have an observer present. The department has the authority to invalidate any testing where such notice is not provided.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1107 (October 1994), amended LR 22:1127 (November 1996), LR 22:1212 (December 1996), LR 23:1509 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2456 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2443 (October 2005).

Chapter 27. Asbestos-Containing Materials in Schools and State Buildings Regulation

§2701. Asbestos-Containing Materials in Schools and State Buildings

A. - B.3.b. …

i. a copy of the inspection report must be submitted to the Office of Environmental Services, Air Permits Division, within 90 days of the inspection; and

b.ii. - c. …

C. Scope

1. This regulation requires local education agencies and the state government to identify friable and nonfriable asbestos-containing material (ACM) in schools and state buildings by visually inspecting schools and state buildings for such materials, sampling such materials if they are not assumed to be ACM, and having samples analyzed by appropriate techniques referred to in this rule. The regulation requires local education agencies and the state government to submit management plans to the Office of Environmental Services, Air Permits Division, on or before 90 days after promulgation of this regulation, to begin to implement the plans 180 days after promulgation of this regulation, and to complete implementation of the plans in a timely fashion. If an exemption is requested for a state building that contains no asbestos, an inspection report supporting that exemption should be submitted in accordance with Clause B.3.b.i of this Section. Management plans submitted to and approved by the Department of Environmental Quality prior to the promulgation of this regulation shall meet the inspection and assessment requirements of this Chapter. In addition, local education agencies and the state government are required to employ persons who have been accredited to conduct inspections, reinspections, develop management plans, or perform response actions. The regulation also includes recordkeeping requirements. Local education agencies and the state government may contractually delegate their duties under this rule, but they remain responsible for the proper performance of those duties. Local education agencies and the state government are encouraged to consult with the Office of Environmental Compliance, Surveillance Division, of the Department of Environmental Quality for assistance in complying with this Rule.

2. …

D. Reserved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2344 and 40:1749.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 15:735 (September 1989), amended LR

16:1056 (December 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:649 (June 1994), LR 22:698 (August 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2456 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2443 (October 2005).

§2719. Operations and Maintenance

A. – F.2.b. …

c. Provide a prompt notification to the Office of Environmental Compliance, Emergency and Radiological Services Division, Single Point of Contact (SPOC), of the major fiber release episode in accordance with LAC 33:I.3923 within 24 hours of the discovery of such an episode, and in writing as specified in LAC 33:I.3925 within seven calendar days after the initial notification.

d. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2344 and 40:1749.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 15:735 (September 1989), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:649 (June 1994), LR 22:699 (August 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2456 (November 2000), LR 30:1672 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2444 (October 2005).

§2723. Management Plans

A. …

1. Each local education agency or the state government shall develop an asbestos management plan for each school, including all buildings that are leased, owned, or otherwise used as school or state buildings, and submit the plan to the Office of Environmental Services, Air Permits Division. After June 20, 1994, each plan must include Form AAC-8, Required Elements for Management Plans (latest revised form can be obtained from the Office of Environmental Services, Air Permits Division, or through the department's website). The plan may be submitted in stages that cover portions of the school or state building under the authority of the local education agency or the state government before the deadline specified in LAC 33:III.2701.C.

2. If a building to be used as part of a school or state building is leased or otherwise acquired more than 90 days after promulgation of this regulation, the local education agency or the state government shall include the new building in the management plan for the school or state building prior to its use as a school or state building. The revised portions of the management plan shall be submitted to the Office of Environmental Services, Air Permits Division.

3. If a local education agency or the state government begins to use a building as a school or state building more than 90 days after promulgation of this regulation, the local education agency or the state government shall submit a management plan for the school or state building to the Office of Environmental Services, Air Permits Division, prior to its use as a school or state building. Each plan developed or modified after June 20, 1994 must include Form AAC-8, Required Elements for Management Plans.

B. - H. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2344 and 40:1749.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 15:735 (September 1989), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:649 (June 1994), LR 22:700 (August 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2457 (November 2000), amended by the Office of Environmental Assessment, LR 30:2021 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2444 (October 2005).

§2735. Exclusions

A. - A.3.a. …

b. Within 30 days after the inspector's determination, the local education agency or the state government shall submit a copy of the inspector's statement to the Office of Environmental Services, Air Permits Division, and shall include the statement in the management plan for that school or state building.

4. - 5. …

6. Based on inspection records and contractor and clearance records, an accredited inspector has determined that no ACBM is present in the homogeneous or sampling area where asbestos removal operations have been conducted before December 14, 1987, and shall sign and date a statement to that effect and include his or her accreditation number. The local education agency or the state government shall submit a copy of the statement to the Office of Environmental Services, Air Permits Division, and shall include the statement in the management plan for that school or state building.

7. An architect or project engineer responsible for the construction of a new school building built after October 12, 1988, or an accredited inspector signs a statement that no ACBM was specified as a building material in any construction document for the building or, to the best of his or her knowledge, no ACBM was used as a building material in the building. The local education agency or the state government shall submit a copy of the signed statement of the architect, project engineer, or accredited inspector to the Office of Environmental Services, Air Permits Division, and shall include the statement in the management plan for that school or state building.

B. - C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2344 and 40:1749.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 15:735 (September 1989), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:649 (June 1994), LR 22:700 (August 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2457 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2444 (October 2005).

§2799. Appendix ACAgent Accreditation Plan

Appendix ACAgent Accreditation Plan

The duration of initial and refresher training courses is specified in numbers of days. A day of training equals eight consecutive hours, including breaks and lunch.

In several instances, initial training courses for a specific discipline (e.g., workers, inspectors) require hands-on training. For asbestos abatement supervisors and workers, hands-on training should include working with asbestos-substitute materials, fitting and using respirators, use of

glove-bags, donning protective clothing, constructing a decontamination unit, as well as other abatement work activities. Hands-on training must permit all supervisors and workers to have actual experience performing tasks associated with asbestos abatement. For inspectors, hands-on training should include conducting a simulated building walk-through inspection and respirator fit testing.

Training requirements for each of the five accredited disciplines are outlined below. Persons in each discipline perform a different job function and distinct role. Inspectors identify and assess the condition of ACBM, or suspect ACBM. Management planners use data gathered by inspectors to assess the degree of hazard posed by ACBM in schools to determine the scope and timing of appropriate response actions needed for schools. Project designers determine how asbestos abatement work should be conducted. Lastly, workers and contractor/supervisors carry out and oversee abatement work. Each accredited discipline and training curriculum is separate and distinct from the others. A person seeking accreditation in any of the five accredited MAP disciplines cannot attend two or more courses concurrently, but may attend such courses sequentially. All courses, both initial and refresher, shall be completed within 14 days of the commencement of the course.

A. - E.2. …

a. A completed Asbestos Accreditation Affidavit, Form AAC-1 (which may be obtained from the Office of Environmental Services, Air Permits Division, or through the department's website) that contains:

a.i. - e. …

3. The completed application with applicable fees (LAC 33:III.223) is to be sent to the Office of Environmental Services, Air Permits Division.

4. - 8.a.…

b. for failure to notify the Office of Environmental Services, Air Permits Division, of changes in status;

E.8.c. - F. …

1. Submit the latest revision of the Asbestos Training Organization Recognition Application, Form AAC-3, (which may be obtained from the Office of Environmental Services, Air Permits Division, or through the department's website) requesting approval to train asbestos agents.

2. - 2.g.…

3. The completed application with applicable fees for organization and trainer recognition (LAC 33:III.223) are to be sent to the Office of Environmental Services, Air Permits Division.

4. - 5.a.…

b. The recognized training organization must keep the Office of Environmental Services, Air Permits Division, informed of any change in status of the training organization, such as pending fines, notices of violation, changes in instructor status, etc.

c. A notification of which courses will be taught, including where, when, and who will conduct the class, must be submitted to the Office of Environmental Services, Air Permits Division.

i. The notification must be received in writing by the Office of Environmental Services, Air Permits Division, at least five days prior to class commencement. (Notification must be made at least three days prior to a course when only the state regulations are to be taught.)

ii. Cancellation of classes must be received by the Office of Environmental Services, Air Permits Division, before the class should have commenced.

d. Within 10 days of the completion of a class a complete roster of trainees, their driver's license or state identification numbers and the issuing states, and their examination grades, with a 1" x 1 ¼" photograph of the face of each trainee, must be submitted to the Office of Environmental Services, Air Permits Division, on a form approved by the department.

e. The Office of Environmental Services, Air Permits Division, must be notified by phone or in writing of changes in class schedules prior to the date when the course was to have commenced.

f. The organization and its instructors must comply with and direct others to comply with LAC 33:III.Chapters 27 and 51 and other applicable federal, state, and local regulations.

g. - k.v. …

6. Applications for trainer recognition shall be completed using the latest revision of the Asbestos Trainer Recognition Form, AAC-4 (latest revision of the form may be obtained from the Office of Environmental Services, Air Permits Division, or through the department's website). A resume indicating proof of experience as described in Clause F.2.d.ii of this Appendix must be attached. The completed application with applicable fees (LAC 33:III.223) is to be sent to the Office of Environmental Services, Air Permits Division.

7. - 9.e.ii.…

iii. If a training provider ceases to conduct training, the training provider shall notify the Office of Environmental Services, Air Permits Division, and give it the opportunity to take possession of that providers asbestos training records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2344 and 40:1749.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 15:735 (September 1989), amended LR 16:397 (May 1990), LR 16:1057 (December 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:649 (June 1994), LR 22:700 (August 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2458 (November 2000), amended by the Office of Environmental Assessment, LR 30:2022 (September 2004), LR 30:2803 (December 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2444 (October 2005).

Chapter 28. Lead-Based Paint ActivitiesCRecognition, Accreditation, Licensure, and Standards for Conducting Lead-Based Paint Activities

§2805. Recognition and Standards for Training Providers

A. - A.1.…

2. A training provider seeking recognition shall submit to the Office of Environmental Services, Air Permits Division, the appropriate fees, as required in LAC 33:III.223, a completed LPF-4 form, and a completed LPF-5

form for each trainer to be recognized, containing the following information:

A.2.a. - B.8.g. …

9. the training provider shall submit rosters, including photographs of participants, to the Office of Environmental Services, Air Permits Division, within 10 working days of course completion. For each course, the training provider shall provide three photographs of each student:

B.9.a. - C.5.h. …

D. Renewal of Training Provider's Recognition

1. A training provider seeking renewal of its recognition shall submit, along with the appropriate fees as required in LAC 33:III.223, a completed LPF-4 Form and a completed LPF-5 Form for each trainer to be recognized to the Office of Environmental Services, Air Permits Division, 60 days prior to its expiration date. If a training provider does not submit its renewal application by that date, the department cannot guarantee the application will be reviewed and acted upon before the end of the one-year period.

2. - 3. …

E. Notification Requirements. A training provider scheduling lead-based paint activities courses shall notify the Office of Environmental Services, Air Permits Division, in writing as follows:

E.1. - G.3. …

4. The training provider shall notify the Office of Environmental Services, Air Permits Division, 30 days prior to relocating its business or transferring its records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 2351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1666 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2459 (November 2000), LR 28:2337 (November 2002), amended by the Office of Environmental Assessment, LR 30:2804 (December 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2445 (October 2005).

§2807. Accreditation of Individuals

A. - C.1.…

a. submit a completed and signed application form to the Office of Environmental Services, Air Permits Division;

1.b. - 2. …

D. Reaccreditation

1. To maintain accreditation individuals must be annually recertified by the Office of Environmental Services, Air Permits Division.

2. - 2.a.…

b. submit a copy of the refresher course completion certificate to the Office of Environmental Services, Air Permits Division;

D.2.c. - E.2. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 2351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1669 (December 1997), amended LR 24:2240 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2459 (November 2000), LR 28:2337 (November 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2446 (October 2005).

§2809. Licensure of Lead Contractors

A. Licensure Requirements

1. In order to bid and/or perform abatement activities, lead contractors must obtain a lead-based paint abatement and removal license from the State of Louisiana Licensing Board for Contractors. As of November 1, 1998, prior to obtaining an initial or renewal license, the lead contractor must submit an application for approval, along with the appropriate fees as required in LAC 33:III.223, to the Office of Environmental Services, Air Permits Division, and certify to the department that the following criteria have been met:

A.1.a. - B.2. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 2351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1671 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2459 (November 2000), LR 28:2338 (November 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2446 (October 2005).

§2811. Work Practice Standards for Conducting Lead-Based Paint Activities for Target Housing and Child-Occupied Facilities

A. - E.3. …

4. The lead contractor shall notify the Office of Environmental Services, Air Permits Division, in writing of abatement activities.

a. …

b. The project shall not start before the start date noted on the LPN. The Office of Environmental Services, Air Permits Division, shall be notified if the operation will stop for a day or more during the project time noted on the LPN or if the project has been canceled or postponed. The firm shall also give notice 24 hours before the completion of a project. Notice should be submitted to the department with written follow-up and fax notification to the appropriate regional office.

4.c. - 13. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 2351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1672 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2459 (November 2000), repromulgated LR 27:39 (January 2001), amended LR 28:2338 (November 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2446 (October 2005).

Chapter 30. Standards of Performance for New Stationary Sources (NSPS)

Subchapter A. Incorporation by Reference

§3003. Incorporation by Reference of 40 *Code of Federal Regulations* (CFR) Part 60

A. - B.8, Table.…

C. Copies of documents incorporated by reference in this Chapter may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20242 or their website, www.gpoaccess.gov/cfr/index.html, from the Department of Environmental Quality, Office of Environmental Services, Air Permits Division, or from a public library.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:1212 (December 1996), amended LR 23:1681 (December 1997), LR 24:1287 (July 1998), LR 24:2238 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1239 (July 1999), LR 25:1797 (October 1999), LR 26:1607 (August 2000), LR 26:2460, 2608 (November 2000), LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 28:2179 (October 2002), LR 29:316 (March 2003), LR 29:698 (May 2003), LR 30:1009 (May 2004), amended by the Office of the Environmental Assessment, LR 31:1568 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2446 (October 2005).

Chapter 51. Comprehensive Toxic Air Pollutant Emission Control Program

Subchapter A. Applicability, Definitions, and General Provisions

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

A. Annual Emissions Reporting. The owner or operator of any stationary source that emits any toxic air pollutant listed in LAC 33:III.5112, Table 51.1 or 51.3, shall submit a completed annual emissions report to the Office of Environmental Assessment, Air Quality Assessment Division, in a format specified by the department. The owner or operator shall identify on the emissions report the quantity of emissions in the previous calendar year for any such toxic air pollutant emitted.

1. …

2. Subsequent Annual Emissions Reports. After the initial annual emissions report, the owner or operator of any stationary source subject to the requirements in Subsection A of this Section shall submit a completed annual emissions report to the Office of Environmental Assessment, Air Quality Assessment Division, on or before July 1 of each year. Each subsequent report shall identify the quantity of emissions of all toxic air pollutants listed in LAC 33:III.5112, Table 51.1 or 51.3.

A.3. - B.1. …

2. Emission Control Bypasses. Except as provided in Paragraph B.6 of this Section, for any unauthorized discharge into the atmosphere of a toxic air pollutant as a result of bypassing an emission control device, when the emission control bypass was not the result of an upset, and the quantity of the unauthorized bypass is greater than or equal to the lower of the Minimum Emission Rate (MER) in LAC 33:III.5112, Table 51.1, or a reportable quantity (RQ) in LAC 33:I.3931, or the quantity of the unauthorized bypass is greater than one pound and there is no MER or RQ for the substance in question, the owner or operator of the source shall provide prompt notification to the Office of Environmental Compliance, Emergency and Radiological Services Division, Single Point of Contact (SPOC), of the bypass no later than 24 hours after the beginning of the bypass in the manner provided in LAC 33:I.3923. Where the emission control bypass was the result of an upset, the owner or operator shall comply with Paragraph B.3 of this Section.

3. Nonemergency Conditions. Except as provided in Paragraph B.6 of this Section, for any unauthorized discharge of a toxic air pollutant into the atmosphere that does not cause an emergency condition, the rate or quantity of which is in excess of that allowed by permit, compliance schedule, or variance, or for upset events that exceed the reportable quantity in LAC 33:I.3931, the owner or operator of the source shall immediately, but in no case later than 24 hours, provide prompt notification to the Office of Environmental Compliance, Emergency and Radiological Services Division, SPOC, in the manner provided in LAC 33:I.3923.

4. Written Reports. For every such discharge or equipment bypass as referred to in Paragraphs B.1, 2, and 3 of this Section, the owner or operator shall submit to the Office of Environmental Compliance, Emergency and Radiological Services Division, SPOC, a written report by certified mail within seven calendar days of learning of the discharge.

B.4.a. - D.2. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18:1363 (December 1992), LR 19:890 (July 1993), amended by the Office of the Secretary, LR 19:1022 (August 1993), repromulgated LR 19:1142 (September 1993), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:58 (January 1997), LR 24:1276 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2004 (September 2000), LR 26:2460 (November 2000), LR 29:2778 (December 2003), LR 30:1673 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2447 (October 2005).

§5111. Permit Requirements, Application, and Review

A. - A.2.a. …

b. if the modification will not result in an increase in emissions of any toxic air pollutant and will not create a new point source, submit a letter requesting a permit modification to the Office of Environmental Services, Air Permits Division. The letter shall include those elements specified in Subparagraphs B.2.a, b, and c of this Section. The administrative authority shall notify the owner or operator of the determination to authorize or deny such modification within 30 days of receiving the request.

3. …

a. submit a letter to the Office of Environmental Services, Air Permits Division, indicating that the necessary permit modification (or new permit if no existing permit is in place) will be applied for by a date specified in the compliance schedule and requesting written authorization to construct; or

b. submit a permit application to the Office of Environmental Services, Air Permits Division, in accordance with Subsection B of this Section.

4. - 6. …

B. Contents of Application for a Louisiana Air Permit

1. An owner or operator may submit to the Office of Environmental Services, Air Permits Division, by certified mail, a written request for a determination of whether actions intended to be taken by the owner or operator constitute construction or modification, or the commencement thereof, of a stationary source. The administrative authority will notify the owner or operator of the determination within 30 days after receiving sufficient information to evaluate the request.

B.2. - C.5.b. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18:1363 (December 1992), LR 19:891 (July 1993), repromulgated LR 19:1314 (October 1993), amended LR 23:59 (January 1997), amended by the Office of the Secretary, LR 25:661 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2461 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2447 (October 2005).

§5113. Notification of Start-Up, Testing, and Monitoring

A. Notification of Start-Up. Any owner or operator that has an initial start-up of a stationary source subject to MACT or Ambient Air Standard Requirements under this Subchapter shall furnish the Office of Environmental Compliance, Emergency and Radiological Services Division, SPOC, written notification as follows:

1. a notification to the Office of Environmental Compliance, Emergency and Radiological Services Division, SPOC, of the anticipated date of the initial start-up of the source not more than 60 days nor less than 30 days before that date; and

2. a notification to the Office of Environmental Compliance, Emergency and Radiological Services Division, SPOC, of the actual date of initial start-up of the source postmarked within 10 working days after such date.

B. Emission Tests and Waiver of Emission Tests

1. The department may require any owner or operator to conduct tests to determine the emission of toxic air pollutants from any source whenever the department has reason to believe that an emission in excess of those allowed by this Subchapter is occurring. The department may specify testing methods to be used in accordance with good professional practice. The department may observe the testing. All tests shall be conducted by qualified personnel. The Office of Environmental Assessment, Air Quality Assessment Division, shall be given a copy of the test results in writing signed by the person responsible for the tests within 45 days after completion of the test.

2. - 4.e. …

5. Unless otherwise specified, samples shall be analyzed and emissions determined within 30 days after each emission test has been completed. The owner or operator shall report the determinations of the emission test to the Office of Environmental Assessment, Air Quality Assessment Division, by a certified letter sent before the close of business on the 45th day following the completion of the emission test.

6. …

7. The owner or operator shall notify the Office of Environmental Assessment, Air Quality Assessment Division, of any emission test required to demonstrate compliance with this Subchapter at least 30 days before the emission test to allow the administrative authority the opportunity to have an observer present during the test.

C. - C.1. …

2. When required at any other time requested by the administrative authority, the owner or operator of a source being monitored shall conduct a performance evaluation of the monitoring system and furnish the Office of Environmental Assessment, Air Quality Assessment Division, with a copy of a written report of the results within 60 days of the evaluation. The owner or operator of the source shall furnish the Office of Environmental Assessment, Air Quality Assessment Division, with written notification of the date of the performance evaluation at least 30 days before the evaluation is to begin.

3. - 4. …

5. The administrative authority may require a continuous monitoring system where such systems are deemed feasible and necessary to demonstrate compliance with applicable standards. The owner or operator of a facility that the administrative authority has required to install a continuous monitoring system shall submit to the Office of Environmental Assessment, Air Quality Assessment Division, for approval a plan describing the affected sources and the methods for ensuring compliance with the continuous monitoring system. The plan for the continuous monitoring system must be submitted to the department within 90 days after the administrative authority requests either the initial plan or an updated plan.

5.a. - 7.…

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18:1364 (December 1992), LR 23:59 (January 1997), LR 23:1658 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2461 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2448 (October 2005).

Subchapter B. Incorporation by Reference of 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants)

§5116. Incorporation by Reference of 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants)

A. – B. …

1. 40 CFR Part 61, Subpart A, Section 61.04(b)(T) is modified to read as follows: Louisiana Department of Environmental Quality, Office of Environmental Services, Air Permits Division.

2. Whenever the referenced regulations (i.e., 40 CFR Part 61) provide authority to "the Administrator," such authority, in accordance with these regulations, shall be exercised by the administrative authority or his designee, notwithstanding any authority exercised by the U.S. Environmental Protection Agency (EPA). Reports, notices, or other documentation required by the referenced regulations (i.e., 40 CFR Part 61) to be provided to "the Administrator" shall be provided to the Office of Environmental Services, Air Permits Division, where the state is designated authority by EPA as "the Administrator," or shall be provided to the Office of Environmental Services, Air Permits Division and EPA, where EPA retains authority as "the Administrator."

C. Copies of documents incorporated by reference in this Chapter may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20242 or their website, www.gpoaccess.gov/cfr/index.html, from the Department of Environmental Quality,

Office of Environmental Services, Air Permits Division, or from a public library.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:61 (January 1997), amended LR 23:1658 (December 1997), LR 24:1278 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 25:1797 (October 1999), LR 26:2271 (October 2000), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2179 (October 2002), LR 29:699 (May 2003), LR 30:1009 (May 2004), amended by the Office of Environmental Assessment, LR 31:1569 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2448 (October 2005).

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

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

A. …

B. Copies of documents incorporated by reference in this Chapter may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20242 or their website, www.gpoaccess.gov/cfr/index.html, from the Department of Environmental Quality, Office of Environmental Services, Air Permits Division, or from a public library.

C. …

1. Whenever the referenced regulations (i.e., 40 CFR Part 63) provide authority to "the Administrator," such authority, in accordance with these regulations, shall be exercised by the administrative authority or his designee, notwithstanding any authority exercised by the U.S. Environmental Protection Agency (EPA). Reports, notices, or other documentation required by the referenced regulations (i.e., 40 CFR Part 63) to be provided to "the Administrator" shall be provided to the Office of Environmental Services, Air Permits Division, where the state is designated authority by EPA as "the Administrator," or shall be provided to the Office of Environmental Services, Air Permits Division and EPA, where EPA retains authority as "the Administrator."

2. - 3. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:61 (January 1997), amended LR 23:1659 (December 1997), LR 24:1278 (July 1998), LR 24:2240 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 25:1798 (October 1999), LR 26:690 (April 2000), LR 26:2271 (October 2000), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2180 (October 2002), LR 29:699 (May 2003), LR 29:1474 (August 2003), LR 30:1010 (May 2004), amended by the Office of Environmental Assessment, LR 31:1569 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2449 (October 2005).

Subchapter M. Asbestos

§5151. Emission Standard for Asbestos

A. - F.2. …

a. provide the Office of Environmental Services, Air Permits Division, with typed notice of intention to demolish or renovate using the latest version of Form AAC-2, Notification of Demolition and Renovation. This form is available from the Office of Environmental Services, Air Permits Division, or through the department's website. Delivery of the notice by U.S. Postal Service, commercial delivery service, or hand delivery is acceptable. The use of a prior version of the AAC-2 Form is acceptable unless the department has previously provided the owner or operator with a copy of the current version, or the owner or operator is aware of the latest version;

b. - c.iv.(a).(i). …

(ii). provide the Office of Environmental Services, Air Permits Division, with a written notice of the new start date as soon as possible before, and no later than, the original start date. Delivery of the updated notice by U.S. Postal Service, commercial delivery service, or hand delivery is acceptable;

(b). …

(i). provide the Office of Environmental Services, Air Permits Division, with a written notice of the new start date at least 10 working days before asbestos stripping or removal work begins;

(ii). for demolitions covered by Subparagraph F.1.b of this Section, provide the Office of Environmental Services, Air Permits Division, written notice of a new start date at least 10 working days before commencement of demolition. Delivery of the updated notice by U.S. Postal Service, commercial delivery service, or hand delivery is acceptable;

c.iv.(c). - f.i.(c). …

ii. within five working days after the notification is made by phone, a typed notification as specified in Subparagraphs F.2.d and e shall be submitted to the Office of Environmental Services, Air Permits Division, in order to obtain an ADVF;

g. - g.iii. …

iv. the completed ADVF from the transporter shall be verified and signed by the disposal site owner or operator and mailed to the Office of Environmental Services, Air Permits Division, within 30 working days. A copy is to be returned to the waste generator;

F.2.g.v. - G.2. …

a. Notify the Office of Environmental Services, Air Permits Division, at least 20 days before beginning the spraying operation. Include the following information in the notice:

G.2.a.i. - I. …

1. deposit all asbestos-containing waste material at a waste disposal site recognized by the department. A completed AAC-7 Form shall have been submitted to the Office of Environmental Services, Air Permits Division, by the disposal facility for prior recognition. Updated information will be required upon request. The latest AAC-7 Form may be obtained from the Office of Environmental Services, Air Permits Division, or through the department's website. The Office of Environmental Services, Air Permits

Division, will maintain a current list of recognized asbestos waste disposal sites;

2. - 3.a.iii. …

b. use an alternative emission control and waste treatment method that has received prior written approval by the administrative authority. To obtain approval for an alternative method, a written application must be submitted to the Office of Environmental Services, Air Permits Division, demonstrating that the following criteria are met:

3.b.i. - 5.b. …

c. report in writing to the Office of Environmental Services, Air Permits Division, if a copy of the waste shipment record, signed by the owner or operator of the designated waste disposal site, is not received by the waste generator within 45 days of the date the waste was accepted by the initial transporter. Include in the report the following information:

I.5.c.i. - J.4.c. …

d. report in writing to the Office of Environmental Services, Air Permits Division, if a copy of the waste shipment record, signed by the owner or operator of the designated waste disposal site, is not received by the waste generator within 45 days of the date the waste was accepted by the initial transporter. Include in the report the following information:

J.4.d.i. - K.2.b. …

c. when requesting a determination on whether a natural barrier adequately deters public access, supply information enabling the Office of Environmental Services, Air Permits Division, to determine whether a fence or a natural barrier adequately deters access by the general public;

3. …

4. notify the Office of Environmental Services, Air Permits Division, in writing at least 45 days prior to excavating or otherwise disturbing any asbestos-containing waste material that has been deposited at a waste disposal site under this Section, and follow the procedures specified in the notification. If the excavation will begin on a date other than the one contained in the original notice, notice of the new start date must be provided to the Office of Environmental Services, Air Permits Division, at least 10 working days before excavation begins and in no event shall excavation begin earlier than the date specified in the original notification. Include the following information in the notice:

K.4.a. - L.6.g. …

7. submit the following reports to the Office of Environmental Services, Air Permits Division:

7.a. - 8. …

M. Reporting and Recordkeeping. Any new source to which this Subchapter applies (with the exception of sources subject to Subsections D, F, G, and H of this Section), which has an initial start-up date preceding the effective date of this Subchapter, shall provide the following information to the administrative authority, postmarked or delivered, within 90 days of the effective date. In the case of a new source that does not have an initial start-up date preceding the effective date, the information shall be provided to the administrative authority, postmarked or delivered, within 90 days of the initial start-up date. Any owner or operator of an existing source shall provide the following information to the administrative authority within 90 days of the effective date of this Subchapter, unless the owner or operator of the existing source has previously provided this information to the administrative authority. Any changes in the information provided by any existing source shall be provided to the administrative authority, postmarked or delivered, within 30 days after the change. The owner or operator of any existing source to which this Section is applicable shall, within 90 days after the effective date, provide the following information to the Office of Environmental Services, Air Permits Division:

M.1. - N.5.a.v. …

b. as soon as possible and no longer than 30 days after receipt of the waste, send a copy of the signed ADVF to the waste generator and to the Office of Environmental Services, Air Permits Division;

c. upon discovering a discrepancy between the quantity of waste designated on the ADVF and the quantity actually received, attempt to reconcile the discrepancy with the waste generator. If the discrepancy is not resolved within 15 days after receiving the waste, immediately report in writing to the Office of Environmental Services, Air Permits Division. Describe the discrepancy and attempts to reconcile it, and submit a copy of the ADVF with the report;

5.d. - 7. …

8. Submit to the Office of Environmental Services, Air Permits Division, upon closure of the facility, a copy of records of asbestos waste disposal locations and quantities.

9. …

10. Notify the Office of Environmental Services, Air Permits Division, in writing at least 45 days prior to excavating or otherwise disturbing any asbestos-containing waste material that has been deposited at a waste disposal site and is covered. If the excavation will begin on a date other than the one contained in the original notice, notice of the new start date shall be provided to the administrative authority at least 10 working days before excavation begins and in no event shall excavation begin earlier than the date specified in the original notification. Include the following information in the notice:

N.10.a. - P.2.b. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), repealed and repromulgated LR 18:1121 (October 1992), amended LR 20:1277 (November 1994), LR 24:27 (January 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2462 (November 2000), LR 30:1673 (August 2004), amended by the Office of Environmental Assessment, LR 30:2022 (September 2004), LR 31:1570 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2449 (October 2005).

Chapter 53. Area Sources of Toxic Air Pollutants

Subchapter A. Toxic Emissions Reporting Requirements

§5307. Reporting Requirements

A. - A.7. …

B. Subsequent reports will be due on or before July 1 of each year. The report shall be submitted to the Department of Environmental Quality, Office of Environmental Services, Air Permits Division, and include the information requested in Subsection A of this Section for the preceding calendar year.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:431 (April 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2464 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2450 (October 2005).

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

§5311. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as It Applies to Area Sources

A. - A, Table. …

B. Copies of documents incorporated by reference in this Chapter may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20242 or their website, www.gpoaccess.gov/cfr/index.html, from the Department of Environmental Quality, Office of Environmental Services, Air Permits Division, or from a public library.

C. Modifications or Exceptions. Whenever the referenced regulations (i.e., 40 CFR Part 63) provide authority to "the Administrator," such authority, in accordance with these regulations, shall be exercised by the administrative authority or his designee, notwithstanding any authority exercised by the U.S. Environmental Protection Agency (EPA). Reports, notices, or other documentation required by the referenced regulations (i.e., 40 CFR Part 63) to be provided to "the Administrator" shall be provided to the Office of Environmental Services, Air Permits Division, where the state is designated authority by EPA as "the Administrator," or shall be provided to the Office of Environmental Services, Air Permits Division and EPA, where EPA retains authority as "the Administrator."

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:63 (January 1997), amended LR 23:1660 (December 1997), LR 24:1279 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2180 (October 2002), LR 29:699 (May 2003), LR 30:1010 (May 2004), amended by the Office of Environmental Assessment, LR 31:1569 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2451 (October 2005).

Chapter 59. Chemical Accident Prevention and Minimization of Consequences

Subchapter B. Risk Management Program Requirements

§5911. Registration for Stationary Sources

A. The owner or operator of each stationary source that has a covered process as defined by 40 CFR 68.3 shall register with the Department of Environmental Quality, Office of Environmental Compliance, Emergency and Radiological Services Division, by the latest of the following dates:

A.1. - B.4.Certification. …

C. If at any time after the submission of the registration, information in the registration is no longer accurate, the owner or operator shall submit an amended registration within 60 days to the Department of Environmental Quality, Office of Environmental Compliance, Emergency and Radiological Services Division.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:426 (April 1994), amended LR 22:1125 (November 1996), LR 23:1496 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2464 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2451 (October 2005).

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental QualityCHazardous 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. Those wastes that are excluded from regulation are found in this Section.

A. Notification of Hazardous Waste Activity

1. Within 90 days after the promulgation of these regulations anyone subject to these regulations who has not previously notified the department on the Notification of Hazardous Waste Activity Form HW-1, or whose notification on Form HW-1 is not approved, must notify the Office of Environmental Services, Water and Waste Permits Division, using Form HW-1. Within 90 days after changes in waste characteristics or changes in these regulations that result in changes in the notification, interim status facilities must revise their notification form by resubmitting a corrected copy of Form HW-1.

A.2. - C.1.b. …

2. The Office of Environmental Services, Water and Waste Permits Division, is responsible for nonhazardous solid wastes treated, stored and/or disposed of in public and private solid waste facilities.

C.3. - 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, Water and Waste Permits Division, 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 for a period of no less than three years from the

date specified in the notice. The exclusion applies only 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;

j. - p.iv.(c).…

v. the owner or operator provides notice to the Office of Environmental Services, Water and Waste Permits Division, providing the following information: the types of materials to be recycled; the type and location of the storage units and recycling processes; and the annual quantities expected to be placed in land-based units. This notification must be updated when there is a change in the type of materials recycled or the location of the recycling process; and

p.vi. - t.ii. …

(a). submit a one-time notice to the Office of Environmental Services, Water and Waste Permits Division, that contains the name, address, and EPA ID number of the generator or intermediate handler facility, provides a brief description of the secondary material that will be subject to the exclusion, and identifies when the manufacturer intends to begin managing excluded, zinc-bearing hazardous secondary materials under the conditions specified in this Subparagraph;

ii.(b). - iii.(a). …

(b). submit a one-time notification to the Office of Environmental Services, Water and Waste Permits Division, that at a minimum, specifies the name, address, and EPA ID number of the manufacturing facility and identifies when the manufacturer intends to begin managing excluded, zinc-bearing hazardous secondary materials under the conditions specified in this Subparagraph;

(c). …

(d). submit to the Office of Environmental Services, Water and Waste Permits Division, an annual report that identifies the total quantities of all excluded hazardous secondary materials that were used to manufacture zinc fertilizers or zinc fertilizer ingredients in the previous year, the name and address of each generating facility, and the industrial processes from which they were generated;

1.t.iv. - 5.c.ii.…

iii. the additional quantities and time frames allowed in Clauses D.5.c.i and ii of this Section are subject to all the provisions in Subparagraph D.5.a and Clauses D.5.b.iii-vi of this Section. The generator or sample collector must apply to the Office of Environmental Services, Water and Waste Permits Division, and provide in writing the following information:

5.c.iii.(a). - 6. …

a. no less than 45 days before conducting treatability studies, the facility notifies the Office of Environmental Services, Water and Waste Permits Division, in writing that it intends to conduct treatability studies under this Subsection;

b. - h. …

i. the facility prepares and submits a report to the Office of Environmental Services, Water and Waste Permits Division, by March 15 of each year that estimates the number of studies and the amount of waste expected to be used in treatability studies during the current year, and includes the following information for the previous calendar year:

i.i. - j. …

k. the facility notifies the Office of Environmental Services, Water and Waste Permits Division, by letter when the facility is no longer planning to conduct any treatability studies at the site.

D.7. - J.1. …

2. Non-Emergency Conditions. For any unauthorized discharge of a hazardous waste that does not cause an emergency condition, the discharger shall notify the Office of Environmental Compliance, Emergency and Radiological Services Division, Single Point of Contact (SPOC), within 24 hours of learning of the discharge and in accordance with other provisions of LAC 33:I.Chapter 39.

K. - O.2.c.vi. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790 (November 1988), LR 15:181 (March 1989), LR 16:47 (January 1990), LR 16:217, 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).

§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*Ca *solid waste*, as defined in this Section, is a hazardous waste if:

1. - 4.b.ii.(c).(i), Table B. …

(ii). A one-time notification and certification must be placed in the facility's files and sent to the Office of Environmental Services, Water and Waste Permits Division, for K061, K062, or F006 HTMR residues that meet the generic exclusion levels for all constituents and do not exhibit any characteristics that are sent to Subtitle D units. The notification and certification that is placed in the

generators' or treaters' files must be updated if the process or operation generating the waste changes and/or if the Subtitle D unit receiving the waste changes. However, the generator or treater needs only to notify the administrative authority on an annual basis if such changes occur. Such notification and certification should be sent to the EPA region or authorized state by the end of the calendar year, but no later than December 31. The notification must include the following information:

4.b.ii.(c).(ii).[a]. - 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).

Chapter 3. General Conditions for Treatment, Storage, and Disposal Facility Permits

§303. Overview of the Permit Program

A. General Application Requirements

1. Permit Application. Any person who is required to have a permit (including new applicants and permittees with expiring permits) shall complete, sign, and submit an application to the Office of Environmental Services, Water and Waste Permits Division, as described in this Section and LAC 33:V.4301, 4303, and 4305. Persons currently authorized with interim status shall apply for permits when required by the administrative authority. Persons covered by permits by rule (LAC 33:V.305.D) need not apply. Procedures for applications, issuance, and administration of emergency permits are found exclusively in LAC 33:V.701 and 703. Procedures for application, issuance, and administration of research, development, and demonstration permits are found exclusively in LAC 33:V.329.

2. No later than 90 days after the promulgation or revision of these regulations, all generators and transporters of hazardous waste, and all owners or operators of hazardous waste treatment, storage, or disposal facilities must file or have on file a notification of that activity using Notification Form HW-1, available from the Office of Environmental Services, Water and Waste Permits Division, or through the department's website. For generators of hazardous waste, the Notification Form HW-1 shall be deemed a registration upon acceptance and approval by the administrative authority.

A.3. - H.1. …

2. An application for a permit for a new TSD facility (including both Parts I and II) may be filed any time after promulgation of these standards, applicable to such facility. The application shall be filed with the Office of Environmental Services, Water and Waste Permits Division.

3. …

4. A new facility must obtain an EPA identification number. EPA identification numbers will be issued only by the EPA. However, application for an EPA Identification Number shall be made by completing the Hazardous Waste Notification form provided by the Office of Environmental Services, Water and Waste Permits Division.

I. - Q. …

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).

§309. Conditions Applicable to All Permits

Each permit shall include permit conditions necessary to achieve compliance with the Act and these regulations, including each of the applicable requirements specified in LAC 33:V.Subpart 1. In satisfying this provision, the administrative authority may incorporate applicable requirements of LAC 33:V.Subpart 1 directly into the permit or establish other permit conditions that are based on LAC 33:V.Subpart 1. The following conditions apply to all hazardous waste permits. All conditions applicable to permits shall be incorporated into the permits either expressly or by reference. If incorporated by reference, a specific citation to these regulations must be given in the permit.

A. - K. …

L. Reporting Requirements

1. Planned Changes. The permittee shall give notice to the Office of Environmental Services, Water and Waste Permits Division, as soon as possible, of any planned physical alterations or additions to the permitted facility.

2. Anticipated Noncompliance. The permittee shall give advance notice to the Office of Environmental Services, Water and Waste Permits Division, of any planned changes in the permitted facility or activity that may result in noncompliance with permit requirements.

3. - 11. …

12. Other Information. If the permittee becomes aware that he failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application, or in any report to the administrative authority, he shall promptly submit such facts or information to the Office of Environmental Services, Water and Waste Permits Division.

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 16:220 (March 1990), LR 16:614 (July 1990), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 21:944 (September 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:657 (April 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2466 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2453 (October 2005).

§321. Modification of Permits

A. Any proposed major modification of a facility or a site, any change in wastes handled in either volume or composition, and any other change in the site, facility, or operations that materially deviates from a permit or materially increases danger to the public health or the environment must be reported in writing to the Office of Environmental Services, Water and Waste Permits Division, prior to such an occurrence and a permit modification must be obtained in accordance with the application, public notice, and permit requirements of this Chapter. Any operator or ownership change shall be made in accordance with LAC 33:I.Chapter 19.

B. - B.1. …

2. Changes in the ownership or operational control of a facility shall be made in accordance with LAC 33:I.Chapter 19.

C. - C.1.a. …

i. The permittee must notify the Office of Environmental Services, Water and Waste Permits Division, concerning the modification by certified mail or other means that establish proof of delivery within seven calendar days after the change is put into effect. This notice must specify the changes being made to permit conditions or supporting documents referenced by the permit and must explain why they are necessary. Along with the notice, the permittee must provide the applicable information required by LAC 33:V.515-533, 2707, and 3115.

a.ii. - c. …

2. Class 2 Modifications

a. For Class 2 modifications, listed in LAC 33:V.322, the permittee must submit a modification request to the Office of Environmental Services, Water and Waste Permits Division, that:

2.a.i. - 10.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 15:378 (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 (October 2005), LR 31:2454, (October 2005).

§323. Suspension, Modification or Revocation and Reissuance, and Termination of Permits

A. …

B. If the administrative authority decides the request is not justified, he or she shall send the requester a brief written response giving a reason for the decision. Denials of requests for modification, revocation and reissuance, or termination are not subject to public notice, comment, or hearings. Denials by the administrative authority may be appealed to the Department of Environmental Quality (DEQ), Legal Affairs Division, in accordance with Act 97 of 1983.

1. - 4.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 14:790 (November 1988), LR 16:220 (March 1990), LR 16:614 (July 1990), LR 18:1256 (November 1992), LR 20:1109 (October 1994), LR 21:944 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2467 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2454 (October 2005).

Chapter 5. Permit Application Contents

Subchapter A. General Requirements for Permit Applications

§501. Permit Application

A. Any person who is required to have a permit (including new applicants and permittees with expiring permits) shall complete, sign, and submit a permit application to the Office of Environmental Services, Water and Waste Permits Division, as described in this Section and LAC 33:V.4301, 4303, and 4305. Persons currently authorized with interim status shall apply for permits when required by the administrative authority. Persons covered by RCRA permits by rule (LAC 33:V.305.D) need not apply. Procedures for applications, issuance, and administration of emergency permits are found exclusively in LAC 33:V.701 and 703. Procedures for application, issuance, and administration of research, development, and demonstration permits are found exclusively in LAC 33:V.329.

B. - 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 10:200 (March 1984), amended LR 16:220 (March 1990), LR 20:1000 (September 1994), LR 20:1109 (October 1994), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:300 (February 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2467 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2454 (October 2005).

Subchapter E. Specific Information Requirements

§520. Specific Part II Information Requirements for Groundwater Protection

The following additional information regarding protection of groundwater is required from owners or operators of hazardous waste facilities containing a regulated unit except as provided in LAC 33:V.3301.B and C:

A. - F.4. …

G. if the presence of hazardous constituents has been detected in the groundwater at the point of compliance at the time of the permit application, the owner or operator must submit to the Office of Environmental Services, Water and

Waste Permits Division, sufficient information, supporting data, and analyses to establish a compliance monitoring program that meets the requirements of LAC 33:V.3319. Except as provided in LAC 33:V.3317.H, the owner or operator must also submit to the Office of Environmental Services, Water and Waste Permits Division, an engineering feasibility plan for a corrective action program necessary to meet the requirements of LAC 33:V.3321, unless the owner or operator obtains written authorization in advance from the administrative authority to submit a proposed permit schedule for submittal of such a plan. To demonstrate compliance with LAC 33:V.3319, the owner or operator must address the following items:

G.1. - H.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), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2467 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2454 (October 2005).

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.h.x. …

i. The applicant must submit to the Office of Environmental Services, Water and Waste Permits Division, a certification that the trial burn has been conducted in accordance with the approved trial burn plan and must submit the results of all the analyses and determinations required in Subparagraph B.2.h of this Section. This submission shall be made within 90 days of completion of the trial burn, or later if approved by the administrative authority.

B.2.j. - 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 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).

Subchapter G. Remedial Action Plans (RAPs)CGeneral Information

§565. How do I apply for a RAP?

A. To apply for a RAP, you must complete an application, sign it, and submit it to the Office of Environmental Services, Water and Waste Permits Division, according to the requirements in this Subchapter.

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 26:272 (February 2000), amended LR 26:2468 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2455 (October 2005).

§590. To whom must I submit my RAP application?

A. You must submit your application for a RAP to the Office of Environmental Services, Water and Waste Permits Division, for approval.

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 26:273 (February 2000), amended LR 26:2468 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2455 (October 2005).

Chapter 7. Administrative Procedures for Treatment, Storage, and Disposal Facility Permits

Subchapter B. Hearings

§708. Preapplication Public Meeting and Notice, Public Notice Requirements at the Application Stage, and Information Repository

A. - A.4.a.iii. …

iv. a notice to the department. The applicant shall send a copy of the newspaper notice to the Office of Environmental Services, Water and Waste Permits Division, and to the appropriate units of state and local government, in accordance with LAC 33:V.717.A.1.b.

A.4.b. - 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 Waste Services, Hazardous Waste Division, LR 24:659 (April 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2468 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2455 (October 2005).

Chapter 11. Generators

Subchapter A. General

§1105. EPA Identification Numbers

A generator must not treat, store, dispose of, transport or offer for transportation hazardous waste without having received an active EPA identification number.

A. …

B. A generator must notify the Office of Environmental Services, Environmental Assistance Division, within seven days if any of the information submitted in the application for the identification number changes. Because EPA identification numbers are site-specific, if a facility moves to another location, the owner/operator must obtain a new EPA identification number for the facility.

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 17:362 (April 1991), LR 18:1256 (November 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2470 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2455 (October 2005).

Chapter 15. Treatment, Storage, and Disposal Facilities

§1504. Construction Quality Assurance Program

A. - C.2. …

D. Certification. Waste shall not be received in a unit subject to this Section until the owner or operator has submitted to the Office of Environmental Services, Water

and Waste Permits Division, by certified mail or hand delivery a certification signed by the CQA officer that the approved CQA plan has been successfully carried out, that the unit meets the requirements of LAC 33:V.2903.J or K, 2303.C or D, or 2503.L or M, and the procedure in LAC 33:V.309.L.3.b has been completed. Documentation supporting the CQA officer's certification must be furnished to the administrative authority upon request.

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 26:2472 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2455 (October 2005).

§1505. Discharges from the Site

A. - A.1. …

2. air emissions, if any, must be in conformity with air limitations of the Clean Air Act administered by the Office of Environmental Services, Water and Waste Permits Division, operating under an Air Quality Permit as required, and reported as required by that permit. The air permit must be applied for prior to the issuance of a hazardous waste permit.

B. - C.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 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).

§1513. Contingency Plan and Emergency Procedures

A. - A.1. …

2. A contingency plan to be implemented in the event of an emergency shall be filed with the Office of Environmental Services, Water and Waste Permits Division, and, after approval, with the local fire and police departments (if any operate in the area), hospitals and emergency response teams operating in the area that are subject to call by the operator or the department.

A.3. - B.6. …

C. Copies of Contingency Plan

1. The contingency plan must be submitted to the Office of Environmental Services, Water and Waste Permits Division, with the permit application and, after modification or approval, will become a condition of any permit issued.

C.2. - F.8.b. …

9. The owner or operator must notify the Office of Environmental Compliance, Emergency and Radiological Services Division, Single Point of Contact (SPOC), and appropriate state and local authorities that the facility is in compliance with Paragraph F.8 of this Section before operations are resumed in the affected area(s) of the facility.

10. 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 the Office of Environmental Compliance, Emergency and Radiological Services Division, SPOC, that includes:

a. - 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 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).

§1527. Receiving and Monitoring Incoming Waste

A. - E. …

F. Unmanifested Waste Reports. Any wastes presented for disposal that are not accompanied by a properly completed manifest shall be rejected. The TSD operator shall note the name of the driver, hauler, and the vehicle identification numbers. He shall notify the Office of Environmental Compliance, Emergency and Radiological Services Division, SPOC, by phone immediately and in writing within seven days of the refusal to accept the waste and provide the administrative authority with the required information.

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 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).

Chapter 17. Air Emission Standards

§1715. Reporting Requirements

A. A semiannual report shall be submitted by owners and operators subject to the requirements of this Subchapter to the Office of Environmental Services, Water and Waste Permits Division, by dates specified by the administrative authority. The report shall include the following information:

A.1. - 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 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).

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. An owner or operator must notify the Office of Environmental Services, Water and Waste Permits Division, that the owner or operator has elected to comply with the requirements of this Section.

B.2. - C.3. …

D. If an owner or operator decides to comply with this Section no longer, the owner or operator must notify the Office of Environmental Services, Water and Waste Permits Division, in writing that the work practice standard described in LAC 33:V.1729.A-E will be followed.

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).

§1739. Alternative Standards for Valves in Gas/Vapor Service or in Light Liquid Service: Skip Period Leak Detection and Repair

A. - A.1. …

2. An owner or operator must notify the Office of Environmental Services, Water and Waste Permits Division, before implementing one of the alternative work practices.

B. - B.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).

§1745. Reporting Requirements

A. A semiannual report shall be submitted by owners and operators subject to the requirements of this Subchapter to the Office of Environmental Services, Water and Waste Permits Division, by dates specified by the administrative authority. The report shall include the following information.

A.1. - 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 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2474 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2457 (October 2005).

Subchapter C. Air Emission Standards for Tanks, Surface Impoundments, and Containers

§1747. Applicability

A. - D.2.…

3. the owner or operator notifies the Office of Environmental Services, Water and Waste Permits Division, in writing, that hazardous waste generated by an organic peroxide manufacturing process or processes meeting the conditions of Paragraph D.1 of this Section are managed at the facility in tanks or containers meeting the conditions of Paragraph D.2 of this Section. The notification shall state the name and address of the facility and be signed and dated by an authorized representative of the facility owner or operator.

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 24:1701 (September 1998), LR 25:440 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:279 (February 2000), LR 26:2474 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2457 (October 2005).

Chapter 19. Tanks

§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. - D.2.b. …

3. Within 30 days of detection of a release to the environment, a report containing the following information must be submitted to the Office of Environmental Compliance, Emergency and Radiological Services Division, Single Point of Contact (SPOC):

D.3.a. - F, 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 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).

Chapter 22. Prohibitions on Land Disposal

Subchapter A. Land Disposal Restrictions

§2227. Treatment Standards Expressed as Specified Technologies

A. …

B. Any person may submit an application to the Office of Environmental Services, Water and Waste Permits Division, demonstrating that an alternative treatment method can achieve a measure of performance equivalent to that achieved by methods specified in Subsections A, C, and D of this Section or specified in LAC 33:V.2299.Appendix, Table 8. The applicant must submit information demonstrating that his or her treatment method is in compliance with federal, state, and local requirements and is protective of human health and the environment. On the basis of such information and any other available information, the administrative authority may approve the use of the alternative treatment method if he or she finds that the alternative treatment method provides a measure of performance equivalent to those achieved by methods specified in Subsections A, C, and D of this Section or specified in LAC 33:V.2299.Appendix, Table 8. Any approval must be stated in writing and may contain such provisions and conditions as the administrative authority deems appropriate. The person to whom such approval is issued must comply with all limitations contained in such a determination.

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 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), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:300 (February 1998), LR 25:445 (March 1999), amended by the Office of

Environmental Assessment, Environmental Planning Division, LR 26:2476 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2457 (October 2005).

§2231. Variance from a Treatment Standard

A. - A.2.b. …

B. Each petition must be submitted to the Office of Environmental Services, Water and Waste Permits Division, for consideration in accordance with the procedures in LAC 33:V.105.H.

C. - C.2. …

D. The EPA administrator and/or the Office of Environmental Services, Water and Waste Permits Division, will give public notice of the intent to approve or deny a petition and will provide the person requesting the variance and the public, through a newspaper notice in the official state journal and the local newspaper in the affected area, the cost of which will be charged to the person requesting the variance, the opportunity to submit written comments on the request and the conditions of the variance, allowing a 30-day comment period. The notices referred to in this Section will be provided in the local newspaper in three separate issues; however, the 30-day comment or notice period shall begin with the notice in the official state journal. The administrative authority will also, in response to a request or at his or her own discretion, hold a public hearing whenever such a hearing might clarify one or more issues concerning the variance request. The administrative authority will give public notice of the hearing at least 30 days before it occurs. (Public notice of the hearing may be given at the same time as notice of the opportunity for the public to submit written comments.) The final decision on a variance from a treatment standard will also be published.

E. - 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 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 21:266 (March 1995), LR 21:1334 (December 1995), LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 25:445 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2476 (November 2000), LR 27:1015 (July 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2458 (October 2005).

§2237. Exemption for Surface Impoundments Treating Hazardous Waste

A. - A.3.c. …

4. The owner or operator must submit to the Office of Environmental Services, Water and Waste Permits Division, a written certification that the requirements of Paragraph A.3 of this Section have been met and a copy of the waste analysis plan required under Paragraph A.2 of this Section. The following certification is required.

> "I certify under penalty of law that the requirements of LAC 33:V.2237.A.3 have been met for all surface impoundments being used to treat prohibited wastes. I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment."

B. - C.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 15:378 (May 1989), amended LR 17:658 (July 1991), LR 21:266 (March 1995), LR 21:1334 (December 1995), LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1727 (September 1998), LR 25:447 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2476 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2458 (October 2005).

§2239. Procedures for Case-by-Case Extensions of an Effective Date

A. Any person who generates, treats, stores, or disposes of a hazardous waste may submit an application to the Office of Environmental Services, Water and Waste Permits Division, for an extension of the effective date of any applicable prohibition established under this Chapter. The applicant must provide the following, and in each case the burden of proof will be on the applicant:

A.1. - F. …

G. Any person granted an extension under this Section must immediately notify the Office of Environmental Services, Water and Waste Permits Division, as soon as he or she has knowledge of any change in the conditions certified in the application.

H. Any person granted an extension under this Section shall submit written progress reports at intervals designated by the Office of Environmental Services, Water and Waste Permits Division, which may not exceed six months. Such reports must describe the overall progress made toward constructing or otherwise providing alternative treatment, recovery, or disposal capacity; must identify any event that may cause or has caused a delay in the development of the capacity, and must summarize the steps taken to mitigate the delay. The administrative authority can revoke the extension at any time if the applicant does not make a good-faith effort to meet the schedule for completion, if the department denies or revokes any required permit, if conditions certified in the application change, or for any violation of the Louisiana Environmental Quality Act or regulations promulgated thereto.

I. - 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 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1727 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2477 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2458 (October 2005).

§2241. Exemptions to Allow Land Disposal of a Prohibited Waste Except by Deep Well Injection

A. Any person seeking an exemption to allow land disposal except by deep well injection of a prohibited hazardous waste in a particular unit or units must submit a petition to the Office of Environmental Services, Water and Waste Permits Division, that meets the following requirements.

A.1. - F.5.c. …

G. Each petition must be submitted to the Office of Environmental Services, Water and Waste Permits Division.

H. …

1. If the owner or operator plans to make changes to the unit design, construction, or operation, such changes must be proposed in writing, and the owner or operator shall submit a demonstration to the Office of Environmental Services, Water and Waste Permits Division, at least 30 days before making the changes. The administrative authority will determine whether the proposed changes invalidate the terms of the petition and will determine the appropriate response. Any changes must be approved by the administrative authority prior to being made.

2. If the owner or operator discovers that a condition at the site that was modeled or predicted in the petition does not occur as predicted, this change must be reported, in writing, to the Office of Environmental Services, Water and Waste Permits Division, within 10 days of discovery of the change. The administrative authority will determine whether the reported change from the terms of the petition requires further action, which may include termination of waste acceptance and revocation of the petition or petition modifications, or other responses.

I. …

J. Each petition must include the following statement signed by the petitioner or a duly authorized representative and must be submitted to the Office of Environmental Services, Water and Waste Permits Division.

> "I certify under penalty of law that I have personally examined and am familiar with the information submitted in this petition and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment."

K. - Q. …

R. As a condition of the exemption, the petitioner must submit a report to the Office of Environmental Services, Water and Waste Permits Division, by March 1 of each calendar year during the term of the exemption that describes in detail the efforts undertaken during the preceding calendar year to reduce the volume and toxicity of the waste generated. The report shall provide data indicating the change in volume and toxicity of waste actually achieved during the year in comparison to previous years.

S. - T.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 15:378 (May 1989), amended LR 16:220 (March 1990), LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1727 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2477 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2458 (October 2005).

§2245. Generators' Waste Analysis, Recordkeeping, and Notice Requirements

A. - E.1. …

2. Such plan must be filed with the Office of Environmental Services, Water and Waste Permits Division, a minimum of 30 days prior to the treatment activity, with delivery verified.

E.3. - K. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 21:266, 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).

§2246. Special Rules Regarding Wastes That Exhibit a Characteristic

A. - 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 or treaters files and sent to the Office of Environmental Services, Water and Waste Permits Division. 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. However, the generator or treater need only notify the administrative authority on an annual basis if such changes occur. In such circumstances, a notification and certification must be sent to the administrative authority by the end of the calendar year, but no later than December 31.

D.1. - E. …

1. A one-time notification, including the following information, must be submitted to the Office of Environmental Services, Water and Waste Permits Division:

E.1.a. - 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).

§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.A.2-4 regarding treatment standards and prohibition levels, the owner or operator of a treatment facility (i.e., the recycler) is not required to notify the receiving facility, in accordance with Subsection B of this Section. With each shipment of such wastes the owner or

operator of the recycling facility must submit a certification described in Subsection C of this Section and a notice that includes the information listed in Subsection B of this Section (except the manifest number) to the Office of Environmental Services, Water and Waste Permits Division. The recycling facility also must 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 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 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).

Subchapter B. Hazardous Waste Injection Restrictions

§2253. Procedures for Case-by-Case Extensions to an Effective Date

A. The owner or operator of a Class I hazardous waste injection well may submit an application to the Office of Environmental Services, Water and Waste Permits Division, for an extension of the effective date of any applicable prohibition established under LAC 33:V.Chapter 22.Subchapter A according to the procedures of LAC 33:V.2239.

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 22:22 (January 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2479 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2460 (October 2005).

§2271. Exemptions to Allow Land Disposal of a Prohibited Waste by Deep Well Injections

A. Any person seeking an exemption to allow land disposal by deep well injection of a prohibited hazardous waste in a particular injection well or wells must submit a petition to the Office of Environmental Services, Water and Waste Permits Division, that does the following.

A.1. - G.2. …

H. Any person who has been granted an exemption pursuant to this Section may submit a petition to the Office of Environmental Services, Water and Waste Permits Division, for reissuance of the exemption to include an additional prohibited waste or wastes or to modify any conditions placed on the exemption by the administrative authority. The administrative authority may reissue the exemption if the petitioner complies with the requirements of Subsections A-F of this Section.

I. Any person who has been granted an exemption pursuant to this Section may submit a petition to the Office of Environmental Services, Water and Waste Permits Division, to modify an exemption to include an additional nonprohibited hazardous waste or wastes. The administrative authority may grant the modification if he or she determines, to a reasonable degree of certainty, that the additional waste or wastes will behave hydraulically and chemically in a manner similar to previously included wastes and that it will not interfere with the containment capability of the injection zone.

J. - U.4.c. …

5. The permittee shall submit a request to the Office of Environmental Services, Water and Waste Permits Division, for reissuance of the exemption at least 180 days prior to the end of the term. If the applicant submits a timely and technically complete application, and the administrative authority, through no fault of the applicant, fails to act on the application for reissuance on or before the expiration date of the existing exemption, the permittee may, with the written approval of the administrative authority, continue to operate under the terms and conditions of the existing exemption which shall remain in effect until final action on the application is taken by the administrative authority.

V. - Y. …

Z. As a condition of the exemption, the petitioner must submit a report to the Office of Environmental Services, Water and Waste Permits Division, by March 1 of each calendar year during the term of the exemption, describing in detail the efforts undertaken during the preceding calendar year to reduce the volume and toxicity of the waste generated. The report shall provide data indicating the change in volume and toxicity of waste actually achieved during the year in comparison to previous 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 22:22 (January 1996), amended LR 23:299 (March 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2479 (November 2000), LR 30:1674 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2460 (October 2005).

§2273. Petition for Determinations Concerning No Alternatives to Land Disposal of a Prohibited Waste by Deep Well Injection

A. - B. …

C. Any person seeking a determination of no alternatives must submit a petition to the Office of Environmental Services, Water and Waste Permits Division, that does the following:

C.1. - D. …

E. Except as otherwise provided in this Section, if a hazardous waste not subject to an existing determination is to be injected, a petition that addresses such hazardous waste must be submitted to the Office of Environmental Assessment, Environmental Technology Division, and a determination of no alternatives be made prior to this waste being injected. The provisions contained in Subsection J of this Section, shall apply with respect to such hazardous waste.

E.1. - L.1. …

2. The petitioner shall submit a petition to the Office of Environmental Services, Water and Waste Permits Division, for reissuance of a determination at least 180 days prior to the end of the term. If the petitioner submits a timely and technically complete petition and the administrative

authority, through no fault of the petitioner, fails to act on the petition for reissuance on or before the expiration date of the existing determination, the petitioner may, with the written approval of the administrative authority, continue to operate under the terms and conditions of the existing determination, which shall remain in effect until final action on the petition is taken by the administrative authority and all subsequent administrative and/or judicial appeal processes have been completed.

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 25:1801 (October 1999), amended LR 26:2479 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2460 (October 2005).

Chapter 25. Landfills

§2508. Response Actions

A. - B. …

1. notify the Office of Environmental Services, Water and Waste Permits Division, in writing of the exceedence within seven days of the determination;

2. submit a preliminary written assessment to the Office of Environmental Services, Water and Waste Permits Division, within 14 days of the determination, as to the amount of liquids, likely sources of liquids, possible location, size, and cause of any leaks, and short-term actions taken and planned;

B.3. - 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 26:2481 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2461 (October 2005).

Chapter 27. Land Treatment

§2707. Treatment Demonstration

A. - D.2.b. …

3. When the owner or operator who has been issued a two-phase permit has completed the treatment demonstration, he must submit to the Office of Environmental Services, Water and Waste Permits Division, a certification, signed by a person authorized to sign a permit application or report under LAC 33:V.507 and 509, that the field tests or laboratory analyses have been carried out in accordance with the conditions specified in phase one of the permit for conducting such tests or analyses. The owner or operator must also submit all data collected during the field tests or laboratory analyses within 90 days of completion of those tests or analyses unless the administrative authority approves a later date.

4. - 4.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 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2481 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2461 (October 2005).

§2711. Unsaturated Zone Monitoring

An owner or operator subject to this Chapter must establish an unsaturated zone monitoring program to discharge the following responsibilities.

A. - G. …

1. notify the Office of Environmental Services, Water and Waste Permits Division, of this finding in writing within seven days. The notification must indicate what constituents have shown statistically significant increases;

2. within 90 days, submit to the Office of Environmental Services, Water and Waste Permits Division, an application for a permit modification to modify the operating practices at the facility in order to maximize the success of degradation, transformation, or immobilization processes in the treatment zone.

H. …

1. notify the Office of Environmental Services, Water and Waste Permits Division, in writing within seven days of determining a statistically significant increase below the treatment zone that he intends to make a determination under this Subsection;

2. within 90 days, submit a report to the Office of Environmental Services, Water and Waste Permits Division, demonstrating that a source other than the regulated units caused the increase or that the increase resulted from error in sampling, analysis, or evaluation;

3. within 90 days, submit to the Office of Environmental Services, Water and Waste Permits Division, an application for a permit modification to make any appropriate changes to the unsaturated zone monitoring program at the facility; and

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 by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2481 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2461 (October 2005).

§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, Water and Waste Permits Division, certification by an independent qualified soil scientist, in lieu of an independent registered professional engineer, that the facility has been closed in accordance with the specifications in the approved closure plan.

C. - C.7. …

D. The owner or operator is not subject to regulation under Paragraph A.8 and Subsection C of this Section if the administrative authority finds that the level of hazardous constituents in the treatment zone soil does not exceed the background value of those constituents by an amount that is statistically significant when using the test specified in Paragraph D.3 of this Section. The owner or operator may submit such a demonstration to the Office of Environmental Services, Water and Waste Permits Division, at any time during the closure or post-closure care periods. For the purposes of this Subsection:

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 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).

Chapter 28. Drip Pads

§2803. Assessment of Existing Drip Pad Integrity

A. …

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, Water and Waste Permits Division, 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, registered professional engineer.

C. Upon completion of all upgrades, repairs, and modifications, the owner or operator must submit to the Office of Environmental Services, Water and Waste Permits Division, the as-built drawings for the drip pad together with a certification by an independent qualified, registered 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).

§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. - N.2.…

3. Upon completing all repairs and cleanup, the owner or operator must notify the Office of Environmental Compliance, Emergency and Radiological Services Division, Single Point of Contact (SPOC), in writing and provide a certification, signed by an independent qualified, registered professional engineer, that the repairs and cleanup have been completed according to the written plan submitted in accordance with Subparagraph N.1.d of this Section.

O. - 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).

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. - I.4. …

a. notify the Office of Environmental Services, Water and Waste Permits Division, of the leak in writing within seven days after detecting the leak; and

I.4.b. - L.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).

§2906. Response Actions

A. - B. …

1. notify the Office of Environmental Services, Water and Waste Permits Division, in writing of the exceedence within seven days of the determination;

2. submit a preliminary written assessment to the Office of Environmental Services, Water and Waste Permits Division, within 14 days of the determination, as to the amount of liquids, likely sources of liquids, possible location, size, and cause of any leaks, and short-term actions taken and planned;

3. - 5. …

6. within 30 days after the notification that the action leakage rate has been exceeded, submit to the Office of Environmental Services, Water and Waste Permits Division, the results of the analyses specified in Paragraphs B.3-5 of this Section, the results of actions taken, and remedial 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 Office of Environmental Services, Water and Waste Permits Division, a report summarizing the results of any remedial actions taken and actions planned.

C. - 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 26:2483 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2462 (October 2005).

Chapter 30. Hazardous Waste Burned in Boilers and Industrial Furnaces

§3005. Permit Standards for Burners

A. - D.4.b. …

c. For the period immediately following completion of the trial burn, and only for the minimum period sufficient to allow the owner or operator to analyze samples, compute data, and submit to the Office of Environmental Services, Water and Waste Permits Division, the trial burn results, and for the administrative authority to modify the facility permit to reflect the trial burn results, the administrative authority will specify the operating requirements most likely to ensure compliance with the emission standards of LAC 33:V.3009-3015, based on engineering judgment.

D.4.d. - I, 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 21:266 (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).

§3007. Interim Status Standards for Burners

A. - B.5.c. …

6. Public Notice Requirements at Precompliance. On or before August 21, 1991, the owner or operator must submit a notice with the following information for publication in a major local newspaper of general circulation and send a copy of the notice to the appropriate units of state and local government. The owner or operator must provide to the Office of Environmental Services, Water and Waste Permits Division, with the certification of precompliance evidence of submitting the notice for publication. The notice, which shall be entitled "Notice of Certification of Precompliance with Hazardous Waste Burning Requirements of LAC 33:V.3007.B," must include:

B.6.a. - C.1.m. …

2. Prior Notice of Compliance Testing. At least 30 days prior to the compliance testing required by Paragraph C.3 of this Section, the owner or operator shall notify the Office of Environmental Services, Water and Waste Permits Division, and submit the following information:

2.a. - 7.b.iii. …

8. Revised Certification of Compliance. The owner or operator may submit at any time a revised certification of compliance (recertification of compliance) to the Office of Environmental Services, Water and Waste Permits Division, under the following procedures:

a. …

b. at least 30 days prior to first burning hazardous waste under operating conditions that exceed those established under a current certification of compliance, the owner or operator shall notify the Office of Environmental Services, Water and Waste Permits Division, and submit the following information:

i. - iii. …

iv. complete emissions testing protocol for any pretesting and for a new compliance test to determine compliance with the applicable emissions standards of LAC 33:V.3009-3015 when operating under revised operating conditions. The protocol shall include a schedule of pre-testing and compliance testing. If the owner and operator revises the scheduled date for the compliance test, he/she shall notify the Office of Environmental Services, Water and Waste Permits Division, in writing at least 30 days prior to the revised date of the compliance test;

c. …

d. submit to the Office of Environmental Services, Water and Waste Permits Division, a revised certification of compliance under Paragraph C.4 of this Section.

D. Periodic Recertifications. The owner or operator must conduct compliance testing and submit to the Office of Environmental Services, Water and Waste Permits Division, a recertification of compliance under provisions of Subsection C of this Section within three 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. - L, 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 21:266 (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).

§3009. Standards to Control Organic Emissions

A boiler or industrial furnace burning hazardous waste must be designed, constructed, and maintained so that, when operated in accordance with operating requirements specified under LAC 33:V.3005.E, it will meet the following standards.

A. - A.2. …

3. Dioxin-Listed Waste. A boiler or industrial furnace burning hazardous waste containing (or derived from) EPA Hazardous Waste Numbers F020, F021, F022, F023, F026, or F027 must achieve a DRE of 99.9999 percent for each POHC designated (under Subparagraph A.1.b of this Section) in its permit. This performance must be demonstrated on POHCs that are more difficult to burn than tetra-, penta-, and hexachlorodibenzo-p-dioxins and dibenzofurans. The DRE is determined for each POHC from the equation in Paragraph A.1 of this Section. In addition, the owner or operator of the boiler or industrial furnace must notify the Office of Environmental Services, Water and Waste Permits Division, of his intent to burn EPA Hazardous Waste Numbers F020, F021, F022, F023, F026, or F027.

A.4. - 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 22:823 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1741 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2484 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2463 (October 2005).

Chapter 31. Incinerators

§3103. General Requirements

A. The operator of a hazardous waste incinerator shall secure a permit from the Office of Environmental Services, Water and Waste Permits Division, of the department.

[Comment: The permit application must also include the information required in LAC 33:V.3115.]

B. - 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 by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2484 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2464 (October 2005).

§3115. Incinerator Permits for New or Modified Facilities

A. - B.13.j. …

14. the applicant must submit to the Office of Environmental Services, Water and Waste Permits Division, a certification that the trial burn has been carried out in accordance with the approved trial burn plan, and must submit the results of all the determinations required in Paragraph B.13 of this Section. This submission shall be made within 90 days of completion of the trial burn, or later if approved by the administrative authority;

15. all data collected during any trial burn must be submitted to the Office of Environmental Services, Water and Waste Permits Division, following the completion of the trial burn;

B.16. - C.2. …

D. For the purposes of determining feasibility of compliance with the performance standards of LAC 33:V.3111 and of determining adequate operating conditions under LAC 33:V.3117, the applicant for a permit for an existing hazardous waste incinerator must prepare and submit to the Office of Environmental Services, Water and Waste Permits Division, a trial burn plan and perform a trial burn in accordance with LAC 33:V.529.B and Paragraphs B.1-11 and 13-16 of this Section or, instead, submit other information as specified in LAC 33:V.529.C. The administrative authority must announce his or her intention to approve the trial burn plan in accordance with the timing and distribution requirements of Paragraph B.12 of this Section. The contents of the notice must include: the name and telephone number of a contact person at the facility; the name and telephone number of a contact office at the permitting agency; the location where the trial burn plan and any supporting documents can be reviewed and copied; and a schedule of the activities that are required prior to permit issuance, including the anticipated time schedule for agency approval of the plan and the time period during which the trial burn would be conducted. Applicants submitting information under LAC 33:V.529.A are exempt from compliance with LAC 33:V.3111 and 3117 and, therefore, are exempt from the requirements to conduct a trial burn. Applicants who submit trial burn plans and receive approval before submission of a permit application must complete the trial burn and submit the results, specified in Paragraph B.13 of this Section, with Part II of the permit application. If completion of this process conflicts with the date set for submission of the Part II application, the applicant must contact the administrative authority to establish a later date for submission of the Part II application or the trial burn results. Trial burn results must be submitted prior to issuance of a permit. When the applicant submits a trial burn plan with Part II of the permit application, the administrative authority will specify a time period prior to permit issuance in which the trial burn must be conducted and the results submitted.

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).

Chapter 33. Ground Water 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. - G.3. …

4. Within 90 days, submit to the Office of Environmental Services, Water and Waste Permits Division, an application for a permit modification to establish a compliance monitoring program meeting the requirements of LAC 33:V.3319. The application must include the following information:

a. - d. …

5. Within 180 days, submit to the Office of Environmental Services, Water and Waste Permits Division:

5.a. - 6.…

a. notify the Office of Environmental Services, Water and Waste Permits Division, in writing within seven days of determining statistically significant evidence of contamination at the compliance point that he or she intends to make a demonstration under this Paragraph;

b. within 90 days, submit a report to the Office of Environmental Services, Water and Waste Permits Division, that demonstrates that a source other than a regulated unit caused the contamination or that the contamination resulted from error in sampling, analysis, or evaluation;

G.6.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 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).

§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. notify the Office of Environmental Services, Water and Waste Permits Division, of this finding in writing within seven days. The notification must indicate what concentration limits have been exceeded; and

2. submit, to the Office of Environmental Services, Water and Waste Permits Division, 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.H.5. The application must at a minimum include the following information:

H.2.a. - I. …

1. notify the Office of Environmental Services, Water and Waste Permits Division, in writing within seven days that he intends to make a demonstration under this Paragraph;

2. within 90 days, submit a report to the Office of Environmental Services, Water and Waste Permits Division, that demonstrates that a source other than a regulated unit caused the standard to be exceeded or that the apparent noncompliance with the standards resulted from error in sampling, analysis or evaluation;

3. within 90 days, submit to the Office of Environmental Services, Water and Waste Permits Division, an application for a permit modification to make any appropriate changes to the compliance monitoring program at the facility; and

4. …

J. If the owner or operator determines that the compliance monitoring program no longer satisfies the requirements of this Section, he must, within 90 days, submit to the Office of Environmental Services, Water and Waste Permits Division, an application for a permit modification to make any appropriate changes to the program.

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).

§3321. Corrective Action Program

An owner or operator required to establish a corrective action program under this Subpart must, at a minimum, discharge the following responsibilities:

A. - G. …

H. if the owner or operator determines that the corrective action program no longer satisfies the requirements of this Section, he must, within 90 days, submit to the Office of Environmental Services, Water and Waste Permits Division, an application for a permit modification to make any appropriate changes to the program.

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 16:614 (July 1990), amended LR 17:658 (July 1991), 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 31:2465 (October 2005).

Chapter 35. Closure and Post-Closure

§3503. Notification of Intention to Close a Facility

A. At least 180 days prior to closure, the operator must notify the Office of Environmental Services, Water and Waste Permits Division, of intention to close and supply the following information:

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 by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2486 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2465 (October 2005).

Subchapter A. Closure Requirements

§3505. Closure Procedures

A. …

B. If the request is made to change the closure plan, the operator will submit revisions to the plan to the Office of Environmental Services, Water and Waste Permits Division, supported by necessary scientific and engineering data to permit evaluation by the department, and the procedures established in permit process will be followed in evaluating and approving the requested changes.

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 Environmental Assessment, Environmental Planning Division, LR 26:2486 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2465 (October 2005).

§3511. Closure Plan; Amendment of Plan

A. - B.8. …

C. Amendment of Plan. The owner or operator must submit to the Office of Environmental Services, Water and Waste Permits Division, a written notification of or request for a permit modification to authorize a change in operating plans, facility design, or the approved closure plan in accordance with the applicable procedures in LAC 33:V.Chapters 3 and 7. The written notification or request must include a copy of the amended closure plan for review or approval by the administrative authority.

1. The owner or operator may submit a written notification or request to the Office of Environmental Services, Water and Waste Permits Division, for a permit modification to amend the closure plan at any time prior to the notification of partial or final closure of the facility.

2. - 2.c.…

3. The owner or operator must submit to the Office of Environmental Services, Water and Waste Permits Division, a written request for a permit modification including a copy of the amended closure plan for approval at least 60 days prior to the proposed change in facility design or operation, or no later than 60 days after an unexpected event has occurred that has affected the closure plan. If an unexpected event occurs during the partial or final closure period, the owner or operator must request a permit modification no later than 30 days after the unexpected event. An owner or operator of a surface impoundment or waste pile that intends to remove all hazardous waste at closure and is not

otherwise required to prepare a contingent closure plan under LAC 33:V.2911.D or 2315.D must submit an amended closure plan to the Office of Environmental Services, Water and Waste Permits Division, no later than 60 days from the date that the owner or operator or administrative authority determines that the hazardous waste management unit must be closed as a landfill, subject to the requirements of LAC 33:V.2521, or no later than 30 days from that date if the determination is made during partial closure or final closure. The administrative authority will approve, disapprove, or modify this amended plan in accordance with the procedures in LAC 33:V.Chapters 3 and 7. In accordance with LAC 33:V.311, the approved closure plan will become a condition of any hazardous waste permit issued.

4. - 5. …

D. Notification of Partial Closure and Final Closure

1. The owner or operator must notify the Office of Environmental Services, Water and Waste Permits Division, in writing at least 60 days prior to the date on which he expects to begin closure of a surface impoundment, waste pile, land treatment or landfill unit, or final closure of a facility with such a unit. The owner or operator must notify the Office of Environmental Services, Water and Waste Permits Division, in writing at least 45 days prior to the date on which he expects to begin final closure of a facility with only treatment or storage tanks, container storage, or incinerator units to be closed. The owner or operator must notify the Office of Environmental Services, Water and Waste Permits Division, in writing at least 45 days prior to the date on which he expects to begin partial or final closure of a boiler or industrial furnace, whichever is earlier.

D.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 13:433 (August 1987), LR 14:791 (November 1988), LR 16:399 (May 1990), LR 16:614 (July 1990), LR 17:478 (May 1991), LR 18:1256 (November 1992), LR 18:1375 (December 1992), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 25:480 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2486 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2465 (October 2005).

§3513. Closure; Time Allowed for Closure

A. - E. …

1. Submit to the Office of Environmental Services, Water and Waste Permits Division, with the request to modify the permit:

1.a. – 7.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 17:478 (May 1991), LR 20:1000 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2486 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2466 (October 2005).

§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, Water and Waste Permits Division, 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 registered professional engineer. Documentation supporting the independent registered 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. 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, Water and Waste Permits Division, a survey plat indicating the location and dimensions of landfills 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 Chapter 35 regulations.

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).

Subchapter B. Post-Closure Requirements

§3523. Post-Closure Plan, Amendment of Plan

A. Written Plan. The owner or operator of a hazardous waste disposal unit must have a written post-closure plan. In addition, certain surface impoundments and waste piles from which the owner or operator intends to remove or decontaminate the hazardous wastes at partial or final closure are required by LAC 33:V.2911.D and 2315.C to have contingent post-closure plans. Owners or operators of surface impoundments and waste piles not otherwise required to prepare contingent post-closure plans under LAC 33:V.2315.C and 2911.D must submit a post-closure plan to the Office of Environmental Services, Water and Waste Permits Division, within 90 days from the date that the owner or operator or administrative authority determines that the hazardous waste management unit must be closed as a landfill, subject to the requirements of LAC 33:V.3519-3527. The plan must be submitted with the permit application, in accordance with LAC 33:V.517.P, and approved by the administrative authority as part of the permit issuance procedures under these regulations. In accordance with LAC 33:V.311 the approved post-closure plan will become a condition of any hazardous waste permit issued.

B. - C. …

D. Amendment of Plan. The owner or operator must submit to the Office of Environmental Services, Water and Waste Permits Division, a written notification of or request for a permit modification to authorize a change in the approved post-closure plan in accordance with the applicable requirements of LAC 33:V.Chapters 3 and 7. The written notification or request must include a copy of the amended post-closure plan for review or approval by the administrative authority.

1. The owner or operator may submit a written notification or request to the Office of Environmental Services, Water and Waste Permits Division, for a permit modification to amend the post-closure plan at any time during the active life of the facility or during the post-closure care period.

2. - 2.d. …

3. The owner or operator must submit a written request for a permit modification at least 60 days prior to the proposed change in facility design or operation, or no later than 60 days after an unexpected event has occurred that has affected the post-closure plan. An owner or operator of a surface impoundment or waste pile that intends to remove all hazardous waste at a closure and is not otherwise required to submit a contingent post-closure plan under LAC 33:V.2911.D and 2315.C must submit a post-closure plan to the Office of Environmental Services, Water and Waste Permits Division, no later than 90 days after the date that the owner or operator or administrative authority determines that the hazardous waste management unit must be closed as a landfill, subject to the requirements of LAC 33:V.2521. The administrative authority will approve, disapprove, or modify this plan in accordance with the procedures in LAC 33:V.Chapters 3 and 7. In accordance with LAC 33:V.311, the approved post-closure plan will become a permit condition.

4. …

E. Certification of Completion of Post-Closure Care. 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, Water and Waste Permits Division, 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 engineer. Documentation supporting the independent registered 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), 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).

§3525. Post-Closure Notices

A. No later than 60 days after 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, Water and Waste Permits Division, a record of the type, location, and quantity of hazardous wastes disposed of within each cell or other disposal unit of the facility. For hazardous wastes disposed of before January 12, 1981, the owner or operator must identify the type, location, and quantity of the hazardous wastes to the best of his knowledge and in accordance with any records he has kept.

B. - 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 10:200 (March 1984), amended LR 13:433 (August 1987), LR 18:1256 (November 1992), LR 23:568 (May 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).

§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, Water and Waste Permits Division, 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 registered professional engineer. Documentation supporting the independent registered 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).

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. Closure Trust Fund

1. An owner or operator may satisfy the requirements of this Part by establishing a closure trust fund that conforms to the requirements of this Subpart, and submitting an originally signed duplicate of the trust agreement to the

Office of Environmental Services, Water and Waste Permits Division. An owner or operator of a new facility must submit the originally signed duplicate of the trust agreement to the administrative authority at least 60 days before the date on which hazardous waste is first received for treatment, storage, or disposal. The trustee must be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency.

2. - 6. …

7. If the value of the trust fund is greater than the total amount of the current closure cost estimate, the owner or operator may submit a written request to the Office of Environmental Services, Water and Waste Permits Division, for release of the amount in excess of the current closure cost estimate.

8. If an owner or operator substitutes other financial assurance as specified in this Part for all or part of the trust fund, he may submit a written request to the Office of Environmental Services, Water and Waste Permits Division, for release of the amount in excess of the current closure cost estimate covered by the trust fund.

9. - 11.b. …

B. Surety Bond Guaranteeing Payment Into a Closure Trust Fund

1. An owner or operator may satisfy the requirements of this Part by obtaining a surety bond that conforms to the requirements of this Paragraph and submitting the bond to the Office of Environmental Services, Water and Waste Permits Division. An owner or operator of a new facility must submit the bond to the administrative authority at least 60 days before the date on which hazardous waste is first received for treatment, storage, or disposal. The bond must be effective before this initial receipt of hazardous waste. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of the Treasury, and approved by the administrative authority.

2. - 6. …

7. Whenever the current closure cost estimate increases to an amount greater than the penal sum, the owner or operator, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current closure cost estimate and submit evidence of such increase to the Office of Environmental Services, Water and Waste Permits Division, or obtain other financial assurance as specified in this Part to cover the increase. Whenever the current closure cost estimate decreases, the penal sum may be reduced to the amount of the current closure cost estimate following written approval by the administrative authority.

8. - 9. …

C. Surety Bond Guaranteeing Performance of Closure

1. An owner or operator may satisfy the requirements of this Section by obtaining a surety bond that conforms to the requirements of this Subsection and submitting the bond to the Office of Environmental Services, Water and Waste Permits Division. An owner or operator of a new facility must submit the bond to the administrative authority at least 60 days before the date on which hazardous waste is first received for treatment, storage, or disposal. The bond must be effective before this initial receipt of hazardous waste. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of the Treasury, and approved by the administrative authority.

2. - 6. …

7. Whenever the current closure cost estimate increases to an amount greater than the penal sum, the owner or operator, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current closure cost estimate and submit evidence of such increase to the Office of Environmental Services, Water and Waste Permits Division, or obtain other financial assurance as specified in this Part. Whenever the current closure cost estimate decreases, the penal sum may be reduced to the amount of the current closure cost estimate following written approval by the administrative authority.

8. - 10. …

D. Closure Letter of Credit

1. An owner or operator may satisfy the requirements of this Section by obtaining an irrevocable standby letter of credit that conforms to the requirements of this Subsection and submitting the letter to the Office of Environmental Services, Water and Waste Permits Division. An owner or operator of a new facility must submit the letter of credit to the administrative authority at least 60 days before the date on which hazardous waste is first received for treatment, storage, or disposal. The letter of credit must be effective before the initial receipt of hazardous waste. The issuing institution must be an entity that has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a federal or state agency.

2. - 6. …

7. Whenever the current closure cost estimate increases to an amount greater than the amount of the credit, the owner or operator, within 60 days after the increase, must either cause the amount of the credit to be increased so that it at least equals the current closure cost estimate and submit evidence of such increase to the Office of Environmental Services, Water and Waste Permits Division, or obtain other financial assurance as specified in this Part to cover the increase. Whenever the current closure cost estimate decreases, the amount of the credit may be reduced to the amount of the current closure cost estimate following written approval by the administrative authority.

8. - 10.b. …

E. Closure Insurance

1. An owner or operator may satisfy the requirements of this Part by obtaining closure insurance that conforms to the requirements of this Paragraph and submitting a certificate of such insurance to the Office of Environmental Services, Water and Waste Permits Division. An owner or operator of a new facility must submit the certificate of insurance to the administrative authority at least 60 days before the date on which hazardous waste is first received for treatment, storage, or disposal. The insurance must be effective before this initial receipt of hazardous waste. At a minimum, the insurer must be licensed to transact the business of insurance, or be eligible to provide insurance as an excess or surplus lines insurer, in one or more states, and authorized to transact business in Louisiana.

2. - 8.e. …

9. Whenever the current closure cost estimate increases to an amount greater than the face amount of the

policy, the owner or operator, within 60 days after the increase, must either cause the face amount to be increased to an amount at least equal to the current closure cost estimate, and submit evidence of such increase to the Office of Environmental Services, Water and Waste Permits Division, or obtain other financial assurance as specified in this Part to cover the increase. Whenever the current closure cost estimate decreases, the face amount may be reduced to the amount of the current closure cost estimate following written approval by the administrative authority.

D.10. - F.2. …

3. To demonstrate that he meets this test, the owner or operator must submit the following items to the Office of Environmental Services, Water and Waste Permits Division:

a. - c.ii. …

4. An owner or operator of a new facility must submit the items specified in Paragraph F.3 of this Section to the Office of Environmental Services, Water and Waste Permits Division, at least 60 days before the date on which hazardous waste is first received for treatment, storage, or disposal.

5. After the initial submission of items specified in Paragraph F.3 of this Section, the owner or operator must send updated information to the Office of Environmental Services, Water and Waste Permits Division, within 90 days after the close of each succeeding fiscal year. This information must consist of all three items specified in Paragraph F.3 of this Section.

6. If the owner or operator no longer meets the requirements of Paragraph F.1 of this Section, he must send notice to the Office of Environmental Services, Water and Waste Permits Division, of intent to establish alternate financial assurance as specified in this Part. The notice must be sent by certified mail within 90 days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the requirements. The owner or operator must provide the alternate financial assurance within 120 days after the end of such fiscal year.

F.7. - 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 13:433 (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).

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. Post-Closure Trust Fund

1. An owner or operator may satisfy the requirements of this Part by establishing a post-closure trust fund that conforms to the requirements of this Paragraph and submitting an originally signed duplicate of the trust agreement to the Office of Environmental Services, Water and Waste Permits Division. An owner or operator of a new facility must submit the originally signed duplicate of the trust agreement to the administrative authority at least 60 days before the date on which hazardous waste is first received for disposal. The trustee must be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency.

2. - 6. …

7. During the operating life of the facility, if the value of the trust fund is greater than the total amount of the current post-closure cost estimate, the owner or operator may submit a written request to the Office of Environmental Services, Water and Waste Permits Division, for release of the amount in excess of the current post-closure cost estimate.

8. If an owner or operator substitutes other financial assurance as specified in this Part for all or part of the trust fund, he may submit a written request to the Office of Environmental Services, Water and Waste Permits Division, for release of the amount in excess of the current post-closure cost estimate covered by the trust fund.

9. - 12.b. …

B. Surety Bond Guaranteeing Payment Into a Post-Closure Trust Fund

1. An owner or operator may satisfy the requirements of this Section by obtaining a surety bond that conforms to the requirements of this Subsection and submitting the bond to the Office of Environmental Services, Water and Waste Permits Division. An owner or operator of a new facility must submit the bond to the administrative authority at least 60 days before the date on which hazardous waste is first received for disposal. The bond must be effective before this initial receipt of hazardous waste. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of the Treasury, and approved by the administrative authority.

2. - 6. …

7. Whenever the current post-closure cost estimate increases to an amount greater than the penal sum, the owner or operator, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current post-closure cost estimate and submit evidence of such increase to the Office of Environmental Services, Water and Waste Permits Division, or obtain other financial assurance as specified in this Part to cover the increase. Whenever the current post-closure cost estimate decreases, the penal sum may be reduced to the amount of the current post-closure cost estimate following written approval by the administrative authority.

8. Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner or operator, and to the Office of Environmental Services, Water and Waste Permits Division. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the

owner or operator and the administrative authority, as evidenced by the return receipts.

9. …

C. Surety Bond Guaranteeing Performance of Post-Closure Care

1. An owner or operator of a facility that has been issued a standard permit may satisfy the requirements of this Section by obtaining a surety bond that conforms to the requirements of this Subsection and by submitting the bond to the Office of Environmental Services, Water and Waste Permits Division. An owner or operator of a new facility must submit the bond to the administrative authority at least 60 days before the date on which hazardous waste is first received for disposal. The bond must be effective before this initial receipt of hazardous waste. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of the Treasury, and approved by the administrative authority.

2. - 6. …

7. Whenever the current post-closure cost estimate increases to an amount greater than the penal sum during the operating life of the facility, the owner or operator, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current post-closure cost estimate and submit evidence of such increase to the Office of Environmental Services, Water and Waste Permits Division, or obtain other financial assurance as specified in this Part. Whenever the current post-closure cost estimate decreases during the operating life of the facility, the penal sum may be reduced to the amount of the current post-closure cost estimate following written approval by the administrative authority.

8. …

9. Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner or operator, and to the Office of Environmental Services, Water and Waste Permits Division. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the administrative authority, as evidenced by the return receipts.

10. - 11. …

D. Post-Closure Letter of Credit

1. An owner or operator may satisfy the requirements of this Part by obtaining an irrevocable standby letter of credit that conforms to the requirements of this Paragraph and by submitting the letter to the Office of Environmental Services, Water and Waste Permits Division. An owner or operator of a new facility must submit the letter of credit to the administrative authority at least 60 days before the date on which hazardous waste is first received for disposal. The letter of credit must be effective before this initial receipt of hazardous waste. The issuing institution must be an entity that has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a federal or state agency.

2. - 6. …

7. Whenever the current post-closure cost estimate increases to an amount greater than the amount of the credit during the operating life of the facility, the owner or operator, within 60 days after the increase, must either cause the amount of the credit to be increased so that it at least equals the current post-closure cost estimate and submit evidence of such increase to the Office of Environmental Services, Water and Waste Permits Division, or obtain other financial assurance as specified in this Part to cover the increase. Whenever the current post-closure cost estimate decreases during the operating life of the facility, the amount of the credit may be reduced to the amount of the current post-closure cost estimate following written approval by the administrative authority.

8. - 9. …

10. If the owner or operator does not establish alternate financial assurance as specified in this Part and obtain written approval of such alternate assurance from the administrative authority within 90 days after receipt by both the owner or operator and the Office of Environmental Services, Water and Waste Permits Division, of a notice from the issuing institution that it has decided not to extend the letter of credit beyond the current expiration date, the administrative authority will draw on the letter of credit. The administrative authority may delay the drawing if the issuing institution grants an extension of the term of the credit. During the last 30 days of any such extension the administrative authority will draw on the letter of credit if the owner or operator has failed to provide alternate financial assurance as specified in this Part and obtain written approval of such assurance from the administrative authority.

11. - 11.b. …

E. Post-Closure Insurance

1. An owner or operator may satisfy the requirements of this Part by obtaining post-closure insurance that conforms to the requirements of this Paragraph and submitting a certificate of such insurance to the Office of Environmental Services, Water and Waste Permits Division. An owner or operator of a new facility must submit the certificate of insurance to the administrative authority at least 60 days before the date on which hazardous waste is first received for disposal. The insurance must be effective before this initial receipt of hazardous waste. At a minimum, the insurer must be licensed to transact the business of insurance, or be eligible to provide insurance as an excess or surplus lines insurer in one or more states, and authorized to transact business in Louisiana.

2. - 7. …

8. The policy must provide that the insurer may not cancel, terminate, or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy must, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may elect to cancel, terminate, or fail to renew the policy by sending notice by certified mail to the owner or operator and the Office of Environmental Services, Water and Waste Permits Division. Cancellation, termination, or failure to renew may not occur, however, during the 120 days beginning with the date of receipt of the notice by both the administrative authority and the owner or operator, as evidenced by the return receipts. Cancellation, termination, or failure to renew may not occur and the policy will remain in full force and effect in the event that on or before the date of expiration:

a. - e. …

9. Whenever the current post-closure cost estimate increases to an amount greater than the face amount of the policy during the operating life of the facility, the owner or operator, within 60 days after the increase, must either cause the face amount to be increased to an amount at least equal to the current post-closure cost estimate and submit evidence of such increase to the Office of Environmental Services, Water and Waste Permits Division, or obtain other financial assurance as specified in this Part to cover the increase. Whenever the current post-closure cost estimate decreases during the operating life of the facility, the face amount may be reduced to the amount of the current post-closure cost estimate following written approval by the administrative authority.

E.10. - F.2. …

3. To demonstrate that he meets this test, the owner or operator must submit the following items to the Office of Environmental Services, Water and Waste Permits Division:

a. - c.ii. …

4. An owner or operator of a new facility must submit the items specified in Paragraph F.3 of this Section to the Office of Environmental Services, Water and Waste Permits Division, at least 60 days before the date on which hazardous waste is first received for disposal.

5. After the initial submission of items specified in Paragraph F.3 of this Section, the owner or operator must send updated information to the Office of Environmental Services, Water and Waste Permits Division, within 90 days after the close of each succeeding fiscal year. This information must consist of all three items specified in Paragraph F.3 of this Section.

6. If the owner or operator no longer meets the requirements of Paragraph F.1 of this Section, he must send notice to the Office of Environmental Services, Water and Waste Permits Division, of intent to establish alternate financial assurance as specified in this Part. The notice must be sent by certified mail within 90 days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the requirements. The owner or operator must provide the alternate financial assurance within 120 days after the end of such fiscal year.

F.7. - 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 13:433 (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 the Environmental Assessment, LR 31:1572 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2469 (October 2005).

Subchapter D. Insurance Requirements

§3715. Liability Requirements

A. - A.1. …

a. Each insurance policy must be amended by attachment of the Hazardous Waste Facility Liability Endorsement or evidenced by a certificate of liability insurance. The wording of the endorsement must be identical to the wording specified in LAC 33:V.3719.I. The wording of the certificate of insurance must be identical to the wording specified in LAC 33:V.3719.J. The owner or operator must submit a signed duplicate original of the endorsement or the certificate of insurance to the Office of Environmental Services, Water and Waste Permits Division. If requested by the administrative authority, the owner or operator must provide a signed duplicate original of the insurance policy. An owner or operator of a new facility must submit the signed duplicate original of the Hazardous Waste Facility Liability Endorsement or the certificate of liability insurance to the administrative authority at least 60 days before the date on which hazardous waste is first received for treatment, storage, or disposal. The insurance must be effective before this initial receipt of hazardous waste.

1.b. - 6. …

7. An owner or operator shall notify the Office of Environmental Services, Water and Waste Permits Division, in writing within 30 days whenever:

A.7.a. - B.1. …

a. Each insurance policy must be amended by attachment of the Hazardous Waste Facility Liability Endorsement or evidenced by a certificate of liability insurance. The wording of the endorsement must be identical to the wording specified in LAC 33:V.3719.I. The wording of the certificate of insurance must be identical to the wording specified in LAC 33:V.3719.J. The owner or operator must submit a signed duplicate original of the endorsement or the certificate of insurance to the Office of Environmental Services, Water and Waste Permits Division. If requested by the administrative authority, the owner or operator must provide a signed duplicate original of the insurance policy. An owner or operator of a new facility must submit the signed duplicate original of the Hazardous Waste Facility Liability Endorsement or the certificate of liability insurance to the administrative authority at least 60 days before the date on which hazardous waste is first received for treatment, storage, or disposal. The insurance must be effective before this initial receipt of hazardous waste.

1.b. - 6. …

7. An owner or operator shall notify the Office of Environmental Services, Water and Waste Permits Division, in writing within 30 days whenever:

B.7.a. - C. …

D. Adjustments by the Administrative Authority. If the administrative authority determines that the levels of financial responsibility required by Subsection A or B of this Section are not consistent with the degree and duration of risk associated with treatment, storage, or disposal at the facility or group of facilities, the administrative authority may adjust the level of financial responsibility required by Subsections A and B of this Section as may be necessary to protect human health and the environment. This adjusted level will be based on the administrative authority's assessment of the degree and duration of risk associated with the ownership or operation of the facility or group of facilities. In addition, if the administrative authority determines that there is a significant risk to human health and the environment from non-sudden accidental occurrences resulting from the operations of a facility that is not a surface impoundment, landfill, or land treatment

facility, he may require that an owner or operator of the facility comply with Subsection B of this Section. An owner or operator must furnish to the Office of Environmental Services, Water and Waste Permits Division, within a reasonable time, any information that the administrative authority requests to determine whether cause exists for such adjustments of level or type of coverage. Any adjustment of the level or type of coverage for a facility that has a permit will be treated as a permit modification under LAC 33:V.321.

E. - F.2. …

3. To demonstrate that he meets this test, the owner or operator must submit the following three items to the Office of Environmental Services, Water and Waste Permits Division:

a. - c.ii. …

4. An owner or operator of a new facility must submit the items specified in Paragraph F.3 of this Section to the Office of Environmental Services, Water and Waste Permits Division, at least 60 days before the date on which hazardous waste is first received for treatment, storage, or disposal.

5. …

6. If the owner or operator no longer meets the requirements of Paragraph F.1 of this Section, he must obtain insurance, a letter of credit, a surety bond, a trust fund, or a guarantee for the entire amount of required liability coverage as specified in this Section. Evidence of liability coverage must be submitted to the Office of Environmental Services, Water and Waste Permits Division, within 90 days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the test requirements.

F.7. - G.3. …

H. Letter of Credit for Liability Coverage

1. An owner or operator may satisfy the requirements of this Section by obtaining an irrevocable standby letter of credit that conforms to the requirements of this Subsection and submitting a copy of the letter of credit to the Office of Environmental Services, Water and Waste Permits Division.

2. - 5. …

I. Surety Bond for Liability Coverage

1. An owner or operator may satisfy the requirements of this Section by obtaining a surety bond that conforms to the requirements of this Subsection and submitting a copy of the bond to the Office of Environmental Services, Water and Waste Permits Division.

2. - 4. …

J. Trust Fund for Liability Coverage

1. An owner or operator may satisfy the requirements of this Section by establishing a trust fund that conforms to the requirements of this Paragraph and submitting an originally signed duplicate of the trust agreement to the Office of Environmental Services, Water and Waste Permits Division.

J.2. - 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).

Subchapter E. Incapacity Regulations

§3717. Incapacity of Owners or Operators, Guarantors, or Financial Institutions

A. An owner or operator must notify the Office of Environmental Services, Water and Waste Permits Division, by certified mail of the commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming the owner or operator as debtor, within 10 days after commencement of the proceeding. A guarantor of a corporate guarantee as specified in LAC 33:V.3707.F and 3711.F must make such a notification if he is named as debtor, as required under the terms of the corporate guarantee (see LAC 33:V.3719.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 by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2493 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2472 (October 2005).

Subchapter F. Financial and Insurance Instruments

§3719. Wording of the Instruments

A. - D. …

IRREVOCABLE STANDBY LETTER OF CREDIT
Secretary
Louisiana Department of Environmental Quality
Post Office Box 4313
Baton Rouge, Louisiana 70821-4313
Attention: Office of Environmental Services,
Water and Waste Permits Division
Dear [Sir or Madam]:

* * *

[See Prior Text in Letter]

E. - F. …

LETTER FROM CHIEF FINANCIAL OFFICER
(CLOSURE AND/OR POST-CLOSURE CARE)
Secretary
Louisiana Department of Environmental Quality
Post Office Box 4313
Baton Rouge, Louisiana 70821-4313
Attention: Office of Environmental Services,
Water and Waste Permits Division
Dear [Sir or Madam]:

* * *

[See Prior Text in Letter]

G. …

LETTER FROM CHIEF FINANCIAL OFFICER
(LIABILITY COVERAGE)
Secretary
Louisiana Department of Environmental Quality
Post Office Box 4313
Baton Rouge, Louisiana 70821-4313
Attention: Office of Environmental Services,
Water and Waste Permits Division
Dear [Sir or Madam]:

* * *

[See Prior Text in Letter]

H. - K. …

IRREVOCABLE STANDBY LETTER OF CREDIT
Secretary
Louisiana Department of Environmental Quality
Post Office Box 4313
Baton Rouge, Louisiana 70821-4313
Attention: Office of Environmental Services,
Water and Waste Permits Division
Dear [Sir or Madam]:

* * *

[See Prior Text in Letter]

L. - 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), amended by the Office of the Environmental Assessment LR 31:1573 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2472 (October 2005).

Chapter 38. Universal Wastes

Subchapter C. Standards for Large Quantity Handlers of Universal Waste

§3841. Notification

A. Except as provided in Paragraphs A.1 and 2 of this Section, a large quantity handler of universal waste must have sent written notification of universal waste management to the Office of Environmental Services, Environmental Assistance Division, and received an EPA Identification Number, before meeting or exceeding the 5,000 kilogram storage limit.

A.1. - B.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 23:574 (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 26:2496 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2473 (October 2005).

Chapter 40. Used Oil

Subchapter D. Standards for Used Oil Transporter and Transfer Facilities

§4029. Notification

A. …

B. Mechanics of Notification. A used oil transporter who has not received an EPA identification number may obtain one by notifying the Office of Environmental Services, Environmental Assistance Division, of their used oil activity by submitting a completed Louisiana Notification of Hazardous Waste Activity Form (HW-1).

C. Upon promulgation of this Chapter, used oil transporters and transfer facilities who have previously notified must renotify the Office of Environmental Services, Environmental Assistance Division, of used oil activity.

D. Used oil transporters and transfer facilities must notify the Office of Environmental Services, Environmental Assistance Division, within seven business days if any of the information submitted in the application for the identification number changes.

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, 267 (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).

Subchapter E. Standards for Used Oil Processors and Re-Refiners

§4043. Notification

A. …

B. Mechanics of Notification. A used oil processor or re-refiner who has not received an EPA identification number may obtain one by notifying the Office of Environmental Services, Environmental Assistance Division, of their used oil activity by submitting a completed Louisiana Notification of Hazardous Waste Activity Form (HW-1).

C. Upon promulgation of this Chapter, used oil processors and re-refiners who have previously notified must renotify the Office of Environmental Services, Environmental Assistance Division, of used oil activity.

D. Used oil processors and re-refiners must notify the Office of Environmental Services, Environmental Assistance Division, within seven business days if any of the information submitted in the application for the identification number changes.

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, 267 (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).

§4045. General Facility Standards

A. - B.6.h.ii. …

iii. the owner or operator must notify the Office of Environmental Compliance, Emergency and Radiological Services Division, Single Point of Contact (SPOC), and appropriate local authorities that the facility is in compliance with Subparagraphs B.h.i and ii of this Section before operations are resumed in the affected area(s) of the facility.

i. The owner or operator must note in the operating record the time, date, and details of any incident that requires implementing the contingency plan. Within 15 days after the incident, he must submit a written report about the incident to the Office of Environmental Compliance, Emergency and Radiological Services Division, SPOC. The report must include:

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).

Subchapter F. Standards for Used Oil Burners That Burn Off-Specification Used Oil for Energy Recovery

§4065. Notification

A. …

B. Mechanics of Notification. A used oil burner who has not received an EPA identification number may obtain one by notifying the Office of Environmental Services, Environmental Assistance Division, of their used oil activity by submitting a completed Louisiana Notification of Hazardous Waste Activity Form (HW-1).

C. Upon promulgation of this Chapter, used oil burners that burn off-specification used oil for energy recovery and have previously notified must renotify the Office of Environmental Services, Environmental Assistance Division, of this used oil activity.

D. A used oil burner must notify the Office of Environmental Services, Environmental Assistance Division, within seven business days if any of the information submitted in the application for the identification number changes.

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, 267 (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 31:2474 (October 2005).

Subchapter G. Standards for Used Oil Fuel Marketers

§4083. Notification

A. …

B. A marketer who has not received an EPA identification number may obtain one by notifying the Office of Environmental Services, Environmental Assistance Division, of their used oil activity by submitting a completed Louisiana Notification of Hazardous Waste Activity Form (HW-1) EPA Form 8700-12.

C. Upon promulgation of this Chapter, used oil fuel marketers who have previously notified must renotify the Office of Environmental Services, Environmental Assistance Division, of used oil activity.

D. A generator must notify the Office of Environmental Services, Environmental Assistance Division, within seven days if any of the information submitted in the application for the identification number changes.

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 31:2474 (October 2005).

Chapter 41. Recyclable Materials

§4107. Spills

A. - B. …

C. Owners of the spilled material are considered to be generators for the purposes of these regulations. In an emergency situation, all reporting and manifest requirements of these rules and regulations for generators may be suspended. However, the owners of the material must submit a full report on the spill, including location of spill, type of material spilled, cause of spill, amount of spilled material, damages incurred, and how the spilled material was cleaned up, transported, and disposed of. This report shall be forwarded to the Office of Environmental Compliance, Emergency and Radiological Services Division, Single Point of Contact (SPOC), no later than 20 days following the spill.

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 11:988 (October 1985), amended LR 11:1139 (December 1985), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2498 (November 2000), LR 30:1674 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2474 (October 2005).

Chapter 42. Conditional Exemption for Low-Level Mixed Waste Storage and Disposal

§4201. What definitions apply to this Chapter?

A. This Chapter uses the following special definitions.

* * *

*We or Us*C*administrative authority*, as defined in LAC 33:V.109. Within this Chapter, the administrative authority is the Office of Environmental Services, Water and Waste Permits Division, unless otherwise indicated.

* * *

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 28:1004 (May 2002), amended LR 28:2181 (October 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2474 (October 2005).

Chapter 43. Interim Status

§4301. Purpose and Applicability

A. The purpose of interim status is to allow existing facilities to operate in an appropriate and responsible manner during the period of time required to process and review permit application or until certification of final closure or, if the facility is subject to post-closure requirements, until post-closure responsibilities are fulfilled. Interim status facilities must, when required by the administrative authority, submit to the Office of Environmental Services, Water and Waste Permits Division, a permit application in compliance with the requirements of these regulations. Failure to submit an application is a violation of interim status and will result in revocation of a facility's interim status designation. Once revoked the facility will be treated as an unpermitted facility and appropriate legal action will be taken.

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 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).

Subchapter A. General Facility Standards

§4320. Construction Quality Assurance Program

A. - C.2. …

D. Certification. The owner or operator of units subject to this Section must submit to the Office of Environmental Services, Water and Waste Permits Division, by certified mail or hand delivery, at least 30 days prior to receiving waste, a certification signed by the CQA officer that the CQA plan has been successfully carried out and that the unit meets the requirements of LAC 33:V.4462.A, 4476, or 4512.A. The owner or operator may receive waste in the unit after 30 days from the administrative authority's receipt of the CQA certification unless the administrative authority determines in writing that the construction is not acceptable, or extends the review period for a maximum of 30 more days, or seeks additional information from the owner or operator during this period. Documentation supporting the CQA officer's certification must be furnished to the administrative authority upon request.

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 26:2499 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2475 (October 2005).

Subchapter F. Closure and Post-Closure

§4381. Closure Plan; Amendment of Plan

A. - B.8. …

C. Amendment of Plan. The owner or operator may amend the closure plan at any time prior to the notification of partial or final closure of the facility. An owner or operator with an approved closure plan must submit a written request to the Office of Environmental Services, Water and Waste Permits Division, to authorize a change to the approved closure plan. The written request must include a copy of the amended closure plan for approval by the administrative authority.

1. - 2. …

3. An owner or operator with an approved closure plan must submit the modified plan to the Office of Environmental Services, Water and Waste Permits Division, at least 60 days prior to the proposed change in facility design or operation, or no more than 60 days after an unexpected event has occurred that has affected the closure plan. If an unexpected event has occurred during the partial or final closure period, the owner or operator must submit the modified plan no more than 30 days after the unexpected event. These provisions also apply to owner or operator of surface impoundments and waste piles who intended to remove all hazardous wastes at closure but are required to close as landfills in accordance with LAC 33:V.4501. If the amendment to the plan is a Class 2 or 3 modification according to the criteria in LAC 33:V.321.C and 322, the modification to the plan will be approved according to the procedures in Paragraph D.4 of this Section.

4. The administrative authority may request modifications to the plan under the conditions described in Paragraph C.1 of this Section. An owner or operator with an approved closure plan must submit the modified plan within 60 days of the request from the Office of Environmental Services, Water and Waste Permits Division, or within 30 days if the unexpected event occurs during partial or final closure. If the amendment is considered a Class 2 or 3 modification according to the criteria in LAC 33:V.321.C and 322, the modification to the plan will be approved in accordance with the procedures in Paragraph D.4 of this Section.

D. Notification of Partial Closure and Final Closure

1. The owner or operator must submit the closure plan to the Office of Environmental Services, Water and Waste Permits Division, at least 180 days prior to the date on which he expects to begin closure of the first surface impoundment, waste pile, land treatment, or landfill unit, or final closure if it involves such a unit, whichever is earlier. The owner or operator must submit the closure plan to the administrative authority at least 45 days prior to the date on which he expects to begin partial or final closure of a boiler or industrial furnace. The owner or operator must submit the closure plan to the administrative authority at least 45 days prior to the date on which he expects to begin final closure of a facility with only tanks, container storage, or incinerator units. Owners or operators with approved closure plans must notify the administrative authority in writing at least 60 days prior to the date on which he expects to begin closure of a surface impoundment, waste pile, landfill, or land treatment unit, or final closure of a facility involving such a unit. Owners or operators with approved closure plans must notify the administrative authority in writing at least 45 days prior to the date on which they expect to begin partial or final closure of a boiler or industrial furnace. Owners or operators with approved closure plans must notify the administrative authority in writing at least 45 days prior to the date on which they expect to begin final closure of a facility with only tanks, container storage, or incinerator units.

2. - 2.b. …

3. The owner or operator must submit his closure plan to the Office of Environmental Services, Water and Waste Permits Division, no later than 15 days after:

D.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 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).

§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, Water and Waste Permits Division, 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 registered professional engineer. Documentation supporting the independent registered 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. Survey Plat. No later than the submission of the certification of closure of each hazardous waste disposal unit, an 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, Water and Waste Permits Division, 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 LAC 33:V.Chapter 35 or 43 regulations.

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).

§4391. Post-Closure Plan; Amendment of Plan

A. Written Plan. By May 19, 1988, the owner or operator of a hazardous waste disposal unit must have a written post-closure plan. An owner or operator of a surface impoundment or waste pile that intends to remove all hazardous wastes at closure must prepare a post-closure plan and submit it to the Office of Environmental Services, Water and Waste Permits Division, within 90 days of the date that the owner or operator or administrative authority determines that the hazardous waste management unit or facility must be closed as a landfill, subject to the requirements of LAC 33:V.4389-4395.

B. - C.5. …

D. Amendment of Plan. The owner or operator may amend the post-closure plan any time during the active life of the facility or during the post-closure care period. An owner or operator with an approved post-closure plan must submit a written request to the Office of Environmental Services, Water and Waste Permits Division, to authorize a change to the approved plan. The written request must include a copy of the amended post-closure plan for approval by the administrative authority.

1. - 2. …

3. An owner or operator with an approved post-closure plan must submit the modified plan to the Office of Environmental Services, Water and Waste Permits Division, at least 60 days prior to the proposed change in facility design or operation, or no more than 60 days after an unexpected event has occurred that has affected the post-closure plan. If an owner or operator of a surface impoundment or a waste pile who intended to remove all hazardous wastes at closure in accordance with LAC 33:V.4457.B or 4475.A, is required to close as a landfill in accordance with LAC 33:V.4501, the owner or operator must submit a post-closure plan within 90 days of the determination by the owner or operator or administrative authority that the unit must be closed as a landfill. If the amendment to the post-closure plan is a Class 2 or 3 modification according to the criteria in LAC 33:V.321.C and 322, the modification to the plan will be approved according to the procedures in Subsection F of this Section.

4. The administrative authority may request modifications to the plan under the conditions described in Paragraph D.1 of this Section. An owner or operator with an approved post-closure plan must submit the modified plan no later than 60 days after the request from the administrative authority. If the amendment to the plan is considered a Class 2 or 3 modification according to the criteria in LAC 33:V.321.C and 322, the modifications to the post-closure plan will be approved in accordance with the procedures in Subsection F of this Section. If the administrative authority determines that an owner or operator of a surface impoundment or waste pile who intended to remove all hazardous wastes at closure must close the facility as a landfill, the owner or operator must submit a post-closure plan for approval to the Office of Environmental Services, Water and Waste Permits Division, within 90 days of the determination.

E. The owner or operator of a facility with hazardous waste management units subject to these requirements must submit his post-closure plan to the administrative authority at least 180 days before the date he expects to begin partial or final closure of the first hazardous waste disposal unit. The date he "expects to begin closure" of the first hazardous waste disposal unit must be either within 30 days after the date on which the hazardous waste management unit receives the known final volume of hazardous waste, or if there is a reasonable possibility that the hazardous waste management unit will receive additional hazardous wastes, no later than one year after the date on which the unit received the most recent volume of hazardous wastes. The owner or operator must submit the post-closure plan to the Office of Environmental Services, Water and Waste Permits Division, no later than 15 days after:

E.1. - G.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 13:433 (August 1987), LR 14:791 (November 1988), LR 16:614 (July 1990), LR 18:723 (July 1992), 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 26:2501 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2476 (October 2005).

§4393. Post-Closure Notices

A. No later than 60 days after 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, Water and Waste Permits Division, a record of the type, location, and quantity of hazardous wastes disposed of within each cell or other disposal unit of the facility. For hazardous wastes disposed of before January 12, 1981, the owner or operator must identify the type, location and quantity of the hazardous wastes to the best of his knowledge and in accordance with any records he has kept.

B. - B.1.b. …

c. the survey plat and record of the type, location, and quantity of hazardous wastes disposed of within each cell or other hazardous waste disposal unit of the facility required by LAC 33:V.4387 and 4393.A have been filed with the local zoning authority or the authority with jurisdiction over local land use and with the Office of Environmental Services, Water and Waste Permits Division; and

B.2. - C.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 13:433 (August 1987), LR 18:723 (July 1992), 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 31:2476 (October 2005).

§4395. 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, Water and Waste Permits Division, 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 registered professional engineer. Documentation supporting the independent registered 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).

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. Closure Trust Fund

1. An owner or operator may satisfy the requirements of this Section by establishing a closure trust fund that conforms to the requirements of this Paragraph, and submitting an originally signed duplicate of the trust agreement to the Office of Environmental Services, Water and Waste Permits Division. The trustee must be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency.

2. - 6. …

7. If the value of the trust fund is greater than the total amount of the current closure cost estimate, the owner or operator may submit a written request to the Office of Environmental Services, Water and Waste Permits Division, for release of the amount in excess of the current closure cost estimate.

8. If an owner or operator substitutes other financial assurance as specified in this Section for all or part of the trust fund, he may submit a written request to the Office of Environmental Services, Water and Waste Permits Division, for release of the amount in excess of the current closure cost estimate covered by the trust fund.

9. …

10. After beginning partial or final closure, an owner or operator or another person authorized to conduct partial or final closure may request reimbursements for partial or final closure expenditures by submitting itemized bills to the Office of Environmental Services, Water and Waste Permits Division. The owner or operator may request reimbursement for partial closure only if sufficient funds are remaining in the trust fund to cover the maximum costs of closing the facility over its remaining operating life. No later than 60 days after receiving bills for partial or final closure activities, the administrative authority will instruct the trustees to make reimbursements in those amounts as the administrative authority specifies in writing, if the administrative authority determines that the partial or final closure expenditures are in accordance with the approved closure plan, or otherwise justified. If the administrative authority has reason to believe that the maximum cost of closure over the remaining life of the facility will be significantly greater than the value of the trust fund, he may withhold reimbursements of such amounts as he deems prudent until he determines, in accordance with LAC 33:V.4407.H that the owner or operator is no longer required to maintain financial assurance for final closure of the facility. If the administrative authority does not instruct the trustee to make such reimbursements, he will provide to the owner or operator a detailed written statement of reasons.

11. - 11.b. …

B. Surety Bond Guaranteeing Payment Into a Closure Trust Fund

1. An owner or operator may satisfy the requirements of this Section by obtaining a surety bond that conforms to the requirements of this Paragraph and submitting the bond to the Office of Environmental Services, Water and Waste Permits Division. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on Federal bonds in Circular 570 of the U.S. Department of the Treasury.

2. - 6. …

7. Whenever the current closure cost estimate increases to an amount greater than the penal sum, the owner or operator, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current closure cost estimate and submit

evidence of such increase to the Office of Environmental Services, Water and Waste Permits Division, or obtain other financial assurance as specified in this Section to cover the increase. Whenever the current closure cost estimate decreases, the penal sum may be reduced to the amount of the current closure cost estimate following written approval by the administrative authority.

8. Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner or operator and to the Office of Environmental Services, Water and Waste Permits Division. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the administrative authority, as evidenced by the return receipts.

9. …

C. Closure Letter of Credit

1. An owner or operator may satisfy the requirements of this Section by obtaining an irrevocable standby letter of credit that conforms to the requirements of this Paragraph and submitting the letter to the Office of Environmental Services, Water and Waste Permits Division. The issuing institution must be an entity that has the authority to issue letters of credit and whose letter of credit operations are regulated and examined by a federal or state agency.

2. - 6. …

7. Whenever the current closure cost estimate increases to an amount greater than the amount of the credit, the owner or operator, within 60 days after the increase, must either cause the amount of the credit to be increased so that it at least equals the current closure cost estimate and submit evidence of such increase to the Office of Environmental Services, Water and Waste Permits Division, or obtain other financial assurance as specified in this Section to cover the increase. Whenever the current closure cost estimate decreases, the amount of the credit may be reduced to the amount of the current closure cost estimate following written approval by the administrative authority.

8. …

9. If the owner or operator does not establish alternate financial assurance as specified in this Section, and obtain written approval of such alternate assurance from the administrative authority within 90 days after receipt by both the owner or operator and the Office of Environmental Services, Water and Waste Permits Division, of a notice from the issuing institution that it has decided not to extend the letter of credit beyond the current expiration date, the administrative authority may delay the drawing if the issuing institution grants an extension of the term of the credit. During the last 30 days of any such extension the administrative authority will draw on the letter of credit if the owner or operator has failed to provide alternate financial assurance as specified in this Section and obtain written approval of such assurance from the administrative authority.

10. - 10.b. …

D. Closure Insurance

1. An owner or operator may satisfy the requirements of this Section by obtaining closure insurance that conforms to the requirements of this Paragraph and submitting a certificate of such insurance to the administrative authority. By the effective date of these regulations the owner or operator must submit to the Office of Environmental Services, Water and Waste Permits Division, a letter from an insurer stating that the insurer is considering issuance of closure insurance conforming to the requirements of this Paragraph to the owner or operator. Within 90 days after the effective date of these regulations, the owner or operator must submit the certificate of insurance to the Office of Environmental Services, Water and Waste Permits Division, or establish other financial assurance as specified in this Section. At a minimum, the insurer must be licensed to transact the business of insurance, or be eligible to provide insurance as an excess or surplus lines insurer, in one or more states, and authorized to transact business in Louisiana.

2. - 5. …

6. The owner or operator must maintain the policy in full force and effect until the administrative authority consents to termination of the policy by the owner or operator as specified in Paragraph D.10 of this Section. Failure to pay the premium, without substitution of alternate financial assurance as specified in this Section, will constitute a significant violation of these regulations, warranting such remedy as the administrative authority deems necessary. Such violation will be deemed to begin upon receipt by the Office of Environmental Services, Water and Waste Permits Division, of a notice of future cancellation, termination, or failure to renew, due to nonpayment of the premium, rather than upon the date of expiration.

7. …

8. The policy must provide that the insurer may not cancel, terminate, or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy must, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may elect to cancel, terminate, or fail to renew the policy by sending notice by certified mail to the owner or operator and the Office of Environmental Services, Water and Waste Permits Division. Cancellation, termination, or failure to renew may not occur, however, during the 120 days beginning with the date of receipt of the notice by both the administrative authority and the owner or operator, as evidenced by the return receipts. Cancellation, termination, or failure to renew may not occur and the policy will remain in full force and effect in the event that on or before the date of expiration:

a. - e. …

9. Whenever the current closure cost estimate increases to an amount greater than the face amount of the policy, the owner or operator, within 60 days after the increase, must either cause the face amount to be increased to an amount at least equal to the current closure cost estimate and submit evidence of such increase to the Office of Environmental Services, Water and Waste Permits Division, or obtain other financial assurance as specified in this Section to cover the increase. Whenever the current closure cost estimate decreases, the face amount may be reduced to the amount of the current closure cost estimate following written approval by the administrative authority.

D.10. - E.2. …

3. To demonstrate that he meets this test, the owner or operator must submit the following items to the Office of Environmental Services, Water and Waste Permits Division:

3.a. - 4.f. …

5. After the initial submission of items specified in Paragraph E.3 of this Section, the owner or operator must send updated information to the Office of Environmental Services, Water and Waste Permits Division, within 90 days after the close of each succeeding fiscal year. This information must consist of all three items specified in Paragraph E.3 of this Section.

6. If the owner or operator no longer meets the requirements of Paragraph E.1 of this Section, he must send notice to the Office of Environmental Services, Water and Waste Permits Division, of intent to establish alternate financial assurance as specified in this Section. The notice must be sent by certified mail within 90 days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the requirements. The owner or operator must provide the alternate financial assurance within 120 days after the end of such fiscal year.

E.7. - F. …

G. Use of a Financial Mechanism for Multiple Facilities. An owner or operator may use a financial assurance mechanism specified in this Section to meet the requirements of this Section for more than one facility. Evidence of financial assurance submitted to the Office of Environmental Services, Water and Waste Permits Division, must include a list showing, for each facility, the EPA identification number, name, address, and the amount of funds for closure assured by the mechanism. The amount of funds available through the mechanism must be no less than the sum of funds that would be available if a separate mechanism had been established and maintained for each facility. In directing the funds available through the mechanism for closure of any of the facilities covered by the mechanism, the administrative authority may direct only the amount of funds designated for that particular facility, unless the owner or operator agrees to the use of additional funds available under the mechanism.

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), 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).

§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. Post-Closure Trust Fund

1. An owner or operator may satisfy the requirements of this Subsection by establishing a post-closure trust fund that conforms to the requirements of this Paragraph and submitting an originally signed duplicate of the trust agreement to the Office of Environmental Services, Water and Waste Permits Division. The trustee must be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency.

2. - 6. …

7. During the operating life of the facility, if the value of the trust fund is greater than the total amount of the current post-closure cost estimate, the owner or operator may submit a written request to the Office of Environmental Services, Water and Waste Permits Division, for release of the amount in excess of the current post-closure cost estimate.

8. If an owner or operator substitutes other financial assurance as specified in this Section for all or part of the trust fund, he may submit a written request to the Office of Environmental Services, Water and Waste Permits Division, for release of the amount in excess of the current post-closure cost estimate covered by the trust fund.

9. - 10. …

11. An owner or operator, or any other person authorized to perform post-closure care, may request reimbursement for the post-closure expenditures by submitting itemized bills to the Office of Environmental Services, Water and Waste Permits Division. Within 60 days after receiving bills for post-closure activities, the administrative authority will instruct the trustee to make reimbursements in those amounts as the administrative authority specifies in writing, if the administrative authority determines that the post-closure expenditures are in accordance with the approved post-closure plan or otherwise justified. If the administrative authority does not instruct the trustee to make such reimbursements, he will provide the owner or operator with a detailed statement of reasons.

12. …

B. Surety Bond Guaranteeing Payment Into a Post-Closure Trust Fund

1. An owner or operator may satisfy the requirements of this Subsection by obtaining a surety bond that conforms to the requirements of this Paragraph and submitting the bond to the Office of Environmental Services, Water and Waste Permits Division. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of the Treasury.

2. - 6. …

7. Whenever the current post-closure cost estimate increases to an amount greater than the penal sum, the owner or operator, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current post-closure cost estimate and submit evidence of such increase to the Office of Environmental Services, Water and Waste Permits Division, or obtain other financial assurance as specified in this Subsection to cover the increase. Whenever the current post-closure cost estimate decreases, the penal sum may be reduced to the amount of the current post-closure cost estimate following written approval by the administrative authority.

8. Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner or operator, and to the Office of Environmental Services, Water and Waste Permits Division. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the

owner or operator and the administrative authority, as evidenced by the return receipts.

9. …

C. Post-Closure Letter of Credit

1. An owner or operator may satisfy the requirements of this Subsection by obtaining an irrevocable standby letter of credit that conforms to the requirements of this Paragraph and by submitting the letter to the Office of Environmental Services, Water and Waste Permits Division. The issuing institution must be an entity that has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a federal or state agency.

2. - 4. …

5. The letter of credit must be irrevocable and issued for a period of at least one year. The letter of credit must provide that the expiration date will be automatically extended for a period of at least one year unless, at least 120 days before the current expiration date, the issuing institution notifies both the owner or operator, and the Office of Environmental Services, Water and Waste Permits Division, by certified mail of a decision not to extend the expiration date. Under the terms of the letter of credit, the 120 days will begin on the date when both the owner or operator, and the administrative authority have received the notice, as evidenced by the return receipts.

6. …

7. Whenever the current post-closure cost estimate increases to an amount greater than the amount of the credit during the operating life of the facility, the owner or operator, within 60 days after the increase, must either cause the amount of the credit to be increased so that it at least equals the current post-closure cost estimate and submit evidence of such increase to the Office of Environmental Services, Water and Waste Permits Division, or obtain other financial assurance as specified in this Section to cover the increase. Whenever the current post-closure cost estimate decreases during the operating life of the facility, the amount of the credit may be reduced to the amount of the current post-closure cost estimate following written approval by the administrative authority.

8. - 9. …

10. If the owner or operator does not establish alternate financial assurance as specified in this Section and obtain written approval of such alternate assurance from the administrative authority within 90 days after receipt by both the owner or operator and the Office of Environmental Services, Water and Waste Permits Division, of a notice from the issuing institution that it has decided not to extend the letter of credit beyond the current expiration date, the administrative authority will draw on the letter of credit. The administrative authority may delay the drawing if the issuing institution grants an extension of the term of the credit. During the last 30 days of any such extension the administrative authority will draw on the letter of credit if the owner or operator has failed to provide alternate financial assurance as specified in this Section and obtain written approval of such assurance from the administrative authority.

11. - 11.b. …

D. Post-Closure Insurance

1. An owner or operator may satisfy the requirements of this Subsection by obtaining post-closure insurance that conforms to the requirements of this Paragraph and submitting a certificate of such insurance to the Office of Environmental Services, Water and Waste Permits Division. The owner or operator must submit to the administrative authority a letter from an insurer stating that the insurer is considering issuance of post-closure insurance conforming to the requirements of this Paragraph to the owner or operator. Within 90 days after the effective date of these regulations, the owner or operator must submit the certificate of insurance to the administrative authority or establish other financial assurance as specified in this Section. At a minimum, the insurer must be licensed to transact the business of insurance, or be eligible to provide insurance as an excess or surplus lines insurer in one or more states, and authorized to transact insurance business in Louisiana.

2. - 4. …

5. An owner or operator or any other person authorized to perform post-closure care may request reimbursement for post-closure expenditures by submitting itemized bills to the Office of Environmental Services, Water and Waste Permits Division. Within 60 days after receiving bills for post-closure activities, the administrative authority will instruct the insurer to make reimbursements in those amounts as the administrative authority specifies in writing, if the administrative authority determines that the post-closure expenditures are in accordance with the approved post-closure plan or otherwise justified. If the administrative authority does not instruct the insurer to make such reimbursements, he will provide a detailed written statement of reasons.

6. - 7. …

8. The policy must provide that the insurer may not cancel, terminate, or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy must, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may elect to cancel, terminate, or fail to renew the policy by sending notice by certified mail to the owner or operator and the Office of Environmental Services, Water and Waste Permits Division. Cancellation, termination, or failure to renew may not occur, however, during the 120 days beginning with the date of receipt of the notice by both the administrative authority and the owner or operator, as evidenced by the return receipts. Cancellation, termination, or failure to renew may not occur and the policy will remain in full force and effect in the event that on or before the date of expiration:

a. - e. …

9. Whenever the current post-closure cost estimate increases to an amount greater than the face amount of the policy during the operating life of the facility, the owner or operator, within 60 days after the increase, must either cause the face amount to be increased to an amount at least equal to the current post-closure cost estimate and submit evidence of such increase to the Office of Environmental Services, Water and Waste Permits Division, or obtain other financial assurance as specified in this Section to cover the increase. Whenever the current post-closure cost estimate decreases during the operating life of the facility, the face amount may be reduced to the amount of the current post-closure cost estimate following written approval by the administrative authority.

D.10. - E.2. ...

3. To demonstrate that he meets this test, the owner or operator must submit the following items to the Office of Environmental Services, Water and Waste Permits Division:

a. - c.ii. …

4. The owner or operator may obtain an extension of the time allowed for submission of the documents specified in Paragraph E.3 of this Section if the fiscal year of the owner or operator ends during the 90 days prior to the effective date of these regulations and if the year-end financial statements for that fiscal year will be audited by an independent certified public accountant. The extension will end no later than 90 days after the end of the owner's or operator's fiscal year. To obtain the extension, the owner's or operator's chief financial officer must send, by the effective date of these regulations, a letter to the Office of Environmental Services, Water and Waste Permits Division. This letter from the chief financial officer must:

a. - f. …

5. After the initial submission of items specified in Paragraph E.3 of this Section, the owner or operator must send updated information to the Office of Environmental Services, Water and Waste Permits Division, within 90 days after the close of each succeeding fiscal year. This information must consist of all three items specified in Paragraph E.3 of this Section.

6. If the owner or operator no longer meets the requirements of Paragraph E.1 of this Section, he must send notice to the Office of Environmental Services, Water and Waste Permits Division, of intent to establish alternate financial assurance as specified in this Section. The notice must be sent by certified mail within 90 days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the requirements. The owner or operator must provide the alternate financial assurance within 120 days after the end of such fiscal year.

7. - 11.a. …

b. the corporate guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator and to the Office of Environmental Services, Water and Waste Permits Division. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the administrative authority, as evidenced by the return receipts; and

E.11.c. - F. …

G. Use of a Financial Mechanism for Multiple Facilities. An owner or operator may use a financial assurance mechanism specified in this Subsection to meet the requirements of this Subsection for more than one facility. Evidence of financial assurance submitted to the Office of Environmental Services, Water and Waste Permits Division, must include a list showing, for each facility, the EPA identification number, name, address, and the amount of funds for post-closure assured by the mechanism. The amount of funds available through the mechanism must be no less than the sum of funds that would be available if a separate mechanism had been established and maintained for each facility. In directing funds available through the mechanism for post-closure care of any of the facilities covered by the mechanism, the administrative authority may direct only the amount of funds designated for that particular facility, unless the owner or operator agrees to the use of additional funds available under the mechanism.

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 13:433 (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).

§4411. Liability Requirements

A. - A.1. …

a. Each insurance policy must be amended by attachment of the hazardous waste facility liability endorsement or evidenced by a certificate of liability insurance. The wording of the endorsement must be identical to the wording specified in LAC 33:V.3719.I. The wording of the certificate of insurance must be identical to the wording specified in LAC 33:V.3719.J. The owner or operator must submit a signed duplicate original of the endorsement or the certificate of insurance to the Office of Environmental Services, Water and Waste Permits Division. If requested by the administrative authority, the owner or operator must provide a signed duplicate original of the insurance policy.

1.b. - 6. …

7. An owner or operator shall notify the Office of Environmental Services, Water and Waste Permits Division, in writing within 30 days whenever:

A.7.a. - B.1. …

a. Each insurance policy must be amended by attachment of the hazardous waste facility liability endorsement or evidenced by a certificate of liability insurance. The wording of the endorsement must be identical to the wording specified in LAC 33:V.3719.I. The wording of the certificate of insurance must be identical to the wording specified in LAC 33:V.3719.J. The owner or operator must submit a signed duplicate original of the endorsement or the certificate of insurance to the Office of Environmental Services, Water and Waste Permits Division. If requested by the administrative authority, the owner or operator must provide a signed duplicate original of the insurance policy.

1.b. - 6. …

7. An owner or operator shall notify the Office of Environmental Services, Water and Waste Permits Division, in writing within 30 days whenever:

B.7.a. - F.2. …

3. To demonstrate that he meets this test, the owner or operator must submit the following three items to the Office of Environmental Services, Water and Waste Permits Division.

a. - c.ii. …

4. The owner or operator may obtain a one-time extension of the time allowed for submission of the documents specified in Paragraph F.3 of this Section if the fiscal year of the owner or operator ends during the 90 days prior to the effective date of these regulations and if the year-end financial statements for that fiscal year will be audited

by an independent certified public accountant. The extension will end no later than 90 days after the end of the owner's or operator's fiscal year. To obtain the extension, the chief financial officer for the owner or operator must send a letter to the Office of Environmental Services, Water and Waste Permits Division. This letter from the chief financial officer must:

a. - f. …

5. After the initial submission of items specified in Paragraph F.3 of this Section, the owner or operator must send updated information to the Office of Environmental Services, Water and Waste Permits Division, within 90 days after the close of each succeeding fiscal year. This information must consist of all three items specified in Paragraph F.3 of this Section.

6. If the owner or operator no longer meets the requirements of Paragraph F.1 of this Section, he must obtain insurance, a letter of credit, a surety bond, a trust fund, or a guarantee for the entire amount of required liability coverage as specified in this Section. Evidence of liability coverage must be submitted to the Office of Environmental Services, Water and Waste Permits Division, within 90 days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the test requirements.

F.7. - G.3. …

H. Letter of Credit for Liability Coverage

1. An owner or operator may satisfy the requirements of this Section by obtaining an irrevocable standby letter of credit that conforms to the requirements of this Subsection and submitting a copy of the letter of credit to the Office of Environmental Services, Water and Waste Permits Division.

2. - 5. …

I. Surety Bond for Liability Coverage

1. An owner or operator may satisfy the requirements of this Section by obtaining a surety bond that conforms to the requirements of this Subsection and submitting a copy of the bond to the Office of Environmental Services, Water and Waste Permits Division.

2. - 4. …

J. Trust Fund for Liability Coverage

1. An owner or operator may satisfy the requirements of this Section by establishing a trust fund that conforms to the requirements of this Subsection and submitting an originally signed duplicate of the trust agreement to the Office of Environmental Services, Water and Waste Permits Division.

J.2. - 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).

§4413. Incapacity of Owners or Operators, Guarantors, or Financial Institutions

A. An owner or operator must notify the Office of Environmental Services, Water and Waste Permits Division, by certified mail of the commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming the owner or operator as debtor, within 10 days after commencement of the proceeding. A guarantor of a corporate guarantee as specified in LAC 33:V.4403.E and 4407.E must make such a notification if he is named as debtor, as required under the terms of the corporate guarantee (see LAC 33:V.3719.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 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).

Subchapter I. Tanks

§4437. Containment and Detection of Releases

A. - H. …

1. The Office of Environmental Services, Water and Waste Permits Division, must be notified in writing by the owner or operator that he intends to conduct and submit a demonstration for a variance from secondary containment as allowed in Subsection G of this Section according to the following schedule:

a. - b. …

2. As part of the notification, the owner or operator must also submit to the Office of Environmental Services, Water and Waste Permits Division, a description of the steps necessary to conduct the demonstration and a timetable for completing each of the steps. The demonstration must address each of the factors listed in Paragraph G.1 or 2 of this Section.

3. The demonstration for a variance must be completed and submitted to the Office of Environmental Services, Water and Waste Permits Division, within 180 days after notifying the administrative authority of intent to conduct the demonstration.

H.4. - 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 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).

Subchapter J. Surface Impoundments

§4449. Action Leakage Rate

A. The owner or operator of surface impoundment units subject to LAC 33:V.4462.A must submit a proposed action leakage rate to the Office of Environmental Services, Water and Waste Permits Division, when submitting the notice required under LAC 33:V.4462.B. Within 60 days of receipt

of the notification, the administrative authority will establish an action leakage rate, either as proposed by the owner or operator or modified using the criteria in this Section, or extend the review period for up to 30 days. If no action is taken by the administrative authority before the original 60- or the extended 90-day review periods, the action leakage rate will be approved as proposed by the owner or operator.

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 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 31:2482 (October 2005).

§4451. Response Actions

A. The owner or operator of surface impoundment units subject to LAC 33:V.4462.A must submit a response action plan to the Office of Environmental Services, Water and Waste Permits Division, when submitting the proposed action leakage rate under LAC 33:V.4449. 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 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).

§4462. Design Requirements

A. …

B. The owner or operator of each unit referred to in Subsection A of this Section must notify the Office of Environmental Services, Water and Waste Permits Division, at least 60 days prior to receiving waste. The owner or operator of each facility submitting notice must file a Part II application within six months of the receipt of such notice.

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 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).

Subchapter K. Waste Piles

§4472. Response Actions

A. The owner or operator of waste pile units subject to LAC 33:V.4476 must submit a response action plan to the Office of Environmental Services, Water and Waste Permits Division, when submitting the proposed action leakage rate under LAC 33:V.4474. 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).

§4474. Action Leakage Rates

A. The owner or operator of waste pile units subject to LAC 33:V.4476 must submit a proposed action leakage rate to the Office of Environmental Services, Water and Waste Permits Division, when submitting the notice required under LAC 33:V.4476. Within 60 days of receipt of the notification, the administrative authority will establish an action leakage rate, either as proposed by the owner or operator or modified using the criteria in this Section, or extend the review period for up to 30 days. If no action is taken by the administrative authority before the original 60- or the extended 90-day review periods, the action leakage rate will be approved as proposed by the owner or operator.

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 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).

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, Water and Waste Permits Division, certification both by the owner or operator and by an independent qualified soil scientist in lieu of an independent registered 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).

Subchapter M. Landfills

§4512. Design and Operating Requirements

A. …

B. The owner or operator of each unit referred to in Subsection A of this Section must notify the Office of Environmental Services, Water and Waste Permits Division, at least 60 days prior to receiving waste. The owner or operator of each facility submitting notice must file a Part II application within six months of the receipt of such notice.

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 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).

Subchapter N. Incinerators

§4522. Interim Status Incinerators Burning Particular Hazardous Wastes

A. - B. …

1. The owner or operator will submit an application to the Office of Environmental Services, Water and Waste Permits Division, containing applicable information in LAC 33:V.529 and 3115 demonstrating that the incinerator can meet the performance standards in LAC 33:V.Chapter 31 when they burn these wastes.

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 16:220 (March 1990), amended LR 20:1000 (September 1994), 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 31:2484 (October 2005).

Subchapter O. Thermal Treatment

§4534. Interim Status Thermal Treatment Devices Burning Particular Hazardous Waste

A. - B. …

1. The owner or operator will submit an application to the Office of Environmental Services, Water and Waste Permits Division, containing the applicable information in LAC 33:V.529 and 3115 demonstrating that the thermal treatment unit can meet the performance standard in LAC 33:V.Chapter 31 when they burn these wastes.

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 16:220 (March 1990), amended LR 20:1000 (September 1994), 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 31:2484 (October 2005).

Chapter 53. Military Munitions

§5309. Standards Applicable to the Storage of Solid Waste Military Munitions

A. - A.1.c. …

d. within 90 days of when a storage unit is first used to store waste military munitions, whichever is later, the owner or operator must notify the Office of Environmental Services, Water and Waste Permits Division, of the location of any waste storage unit used to store waste military munitions for which the conditional exemption in Paragraph A.1 of this Section is claimed;

1.e. - 3. …

B. Notice of Termination of Waste Storage. The owner or operator must notify the Office of Environmental Services, Water and Waste Permits Division, when a storage unit identified in Subparagraph A.1.d of this Section will no longer be used to store waste military munitions.

C. - E. …

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 24:1757 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2510 (November 2000), LR 30:1675 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2484 (October 2005).

Part VI. Inactive and Abandoned Hazardous Waste and Hazardous Substance Site Remediation

Chapter 2. Site Discovery and Evaluation

§201. Site Discovery

A. Site Discovery Reporting Requirements. As part of a program to identify inactive or uncontrolled contaminated sites, the owner, operator, or other responsible person shall report to the Office of Environmental Compliance, Emergency and Radiological Services Division, Single Point of Contact (SPOC), within 24 hours, in the manner provided in LAC 33:I.3923, any sites where hazardous substances have been, or could have been, disposed of or discharged. This Section sets forth the requirements for reporting such sites.

B. - B.5.f. …

C. Voluntary Reporting. In addition to the mandatory reporting by those persons listed under Subsection B of this Section, all members of the public are encouraged to report to the department any suspected discharge, disposal, or presence of any hazardous substance at any inactive or uncontrolled site. This voluntary reporting can be made by contacting the Office of Environmental Compliance, Emergency and Radiological Services Division, SPOC, in the manner provided in LAC 33:I.3923.

D. - D.2. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2171 et seq., 2221 et seq., and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2182 (November 1999), amended LR 26:2511 (November 2000), LR 28:1762 (August 2002), LR 30:1675 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2484 (October 2005).

Chapter 3. Administrative Processes

§303. Declaration that a Site is Abandoned

A. - B.2. …

3. Within 10 calendar days of the publication of the last official journal notice, any owner may request a hearing by writing to the Office of the Secretary, Legal Affairs Division, regarding the declaration of abandonment. If a request for a hearing is received, the department shall hold a hearing in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq.

C. - C.3. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2221 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2184 (November 1999), amended LR 26:2511 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2484 (October 2005).

Chapter 9. Voluntary Remediation

§911. Application Process

A. …

1. a Voluntary Remedial Investigation Application Form VCP001, available from the Office of Environmental Assessment, Remediation Services Division, and on the department's website, with required attachments, accompanied by the remedial investigation work plan review fee; and

2. - 2.f. …

B. Voluntary Remediation Applications. Prior to implementation of a voluntary remedial action at a site, applicants must submit a voluntary remediation application to the Office of Environmental Assessment, Remediation Services Division, for review and final approval. The application shall consist of the following:

1. a Voluntary Remediation Application Form VCP002, available from the Office of Environmental Assessment, Remediation Services Division, and on the department's website, with required attachments, accompanied by the remedial action plan review fee;

B.2. - C.3. …

D. Public Notice. Upon acceptance of the voluntary remediation application, as set forth in Subsection C of this Section, the applicant must place a public notice of the proposed voluntary remedial action plan in the local newspaper of general circulation in the parish where the voluntary remediation site is located. The public notice shall be a single classified advertisement at least four inches by six inches in size in the legal or public notices section. The applicant must provide proof of publication of the notice to the Office of Environmental Assessment, Remediation Services Division, prior to final approval of the plan. The public notice shall:

1. - 5. …

E. Direct Notice to Landowners. Within five days of the public notice in Subsection D of this Section, the applicant must send a direct written notice of the voluntary remedial action plan to persons owning immovable property contiguous to the voluntary remediation site. This notice shall be sent to persons listed as owners of the property on the rolls of the parish tax assessor as of the date on which the voluntary remediation application is submitted. The notice must be sent by certified mail and contain the same information that is provided in the public notice. Return receipts or other evidence of the receipt or attempted delivery of the direct notice must be provided to the Office of Environmental Assessment, Remediation Services Division, prior to final approval of the plan.

F. Public Hearing and Comment

1. Comments on the voluntary remedial action plan shall be accepted by the Office of Environmental Assessment, Remediation Services Division, for a period of 30 days after the date of the public notice and shall be fully considered by the division prior to final approval of the plan. However, if the administrative authority determines a shorter or longer comment period is warranted, the administrative authority may provide for a shorter or longer comment period in the public notice described in Paragraph D.1 of this Section. Also, the comment period provided in the public notice may be extended by the administrative authority if the administrative authority determines such an extension is warranted.

F.2. - H. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2285 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:516 (April 2001), amended by the Office of Environmental Assessment, LR 30:2024 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2485 (October 2005).

§913. Completion of Voluntary Remedial Actions

A. - D. …

1. the applicant provides written notice to the Office of Environmental Assessment, Remediation Services Division, at least 15 days in advance of the termination;

2. - 3. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and in particular R.S. 30:2285 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:518 (April 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2485 (October 2005).

Part VII. Solid Waste

Subpart 1. Solid Waste Regulations

Chapter 1. General Provisions and Definitions

§113. Public Information Service

A. - B. …

C. Mailing List. The department will maintain a mailing list of groups or individuals interested in public hearings and other such activities of the Office of Environmental Services, Water and Waste Permits Division.

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

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

Chapter 3. Scope and Mandatory Provisions of the Program

§301. Wastes Governed by These Regulations

All solid wastes as defined by the act and these regulations are subject to the provisions of these regulations, except as follows:

A. …

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

A.2. - B.6. …

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).

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

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

A. - I. …

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

1. the generator must notify the Office of Environmental Services, Water and Waste Permits Division, of such activity at each site in accordance with LAC 33:VII.503.A;

2. the generator must submit to the Office of Management and Finance, Financial Services Division, a disposer annual report in accordance with the standards in LAC 33:VII.1109, which reports amounts of woodwastes beneficially-used at each site;

K. - L. …

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

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

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

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

A. - D. …

1. the facility must notify the Office of Environmental Services, Water and Waste Permits Division, of such activity in accordance with LAC 33:VII.503.A; and

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

E. - H. …

1. the facility must notify the Office of Environmental Services, Water and Waste Permits Division, of such activity in accordance with LAC 33:VII.503.A;

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

H.3. - I.3. …

4. the facility must notify the Office of Environmental Services, Water and Waste Permits Division, of its activities in accordance with LAC 33:VII.503.A;

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

I.6. - J. …

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

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

§307. Exemptions

A. - C.1. …

2. Persons granted emergency exemptions by the administrative authority shall publish a notice to that effect in the legal-notices section of a newspaper of general circulation in the area and parish where the facility requesting the exemption is located. The notice shall be published one time as a single classified advertisement measuring 3 columns by 5 inches in the legal-notices section of a newspaper of general circulation in the area and parish where the facility is located, and one time as a classified advertisement in the legal-notices section of the official journal of the state. The notice shall describe the nature of the emergency exemption and the period of time for which the exemption was granted. Proof of publication of the notice shall be forwarded to the Office of Environmental Services, Water and Waste Permits Division, within 60 days after the granting of an emergency exemption.

D. - 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), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2516 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2486 (October 2005).

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

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

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

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

§315. Mandatory Provisions

All persons conducting activities regulated under these regulations shall comply with the following provisions.

A. - F. …

G. Permit Upgrade Schedule for Existing Facilities Operating Under a Standard Permit

1. Existing Type I Landfills and Type I Landfarms

a. Permit holders for existing Type I landfills and Type I landfarms operating under a standard permit must submit to the Office of Environmental Services, Water and Waste Permits Division, no later than February 1, 1994, a mandatory modification document to address these regulations.

G.1.b. - H. …

I. Applicants of Proposed Facilities with Pending Permit Applications

1. Applicants of proposed facilities with permit applications on file with the department must submit to the Office of Environmental Services, Water and Waste Permits Division, no later than January 1, 1994, an addendum to their application to address these regulations.

I.2. - R.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 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).

Chapter 5. Solid Waste Management System

Subchapter A. Administration, Classification, and Inspection Procedures

§503. Notification

A. Notification

1. Except as provided for in Paragraph A.2 of this Section, persons who generate industrial solid waste and/or persons who transport, process, or dispose of solid waste shall, within 30 days after they become subject to these regulations, notify the Office of Environmental Services, Water and Waste Permits Division, in writing of such activity. A form to be used for notification shall be obtained from the Office of Environmental Services, Water and Waste Permits Division, or through the department's website.

2. …

3. Owners or operators of pickup stations are required to notify the Office of Environmental Services, Water and Waste Permits Division, of such activities within 30 days after they become subject to these regulations. Existing facilities which have previously notified are not required to renotify.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2517 (November 2000), amended by the Office of Environmental Assessment, LR 30:2024 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2487 (October 2005).

§505. Classification of Existing Facilities Which Have Not Been Previously Classified or Which Are Not Presently Operating under a Standard Permit

A. - A.2. …

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

B. - C.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 Environmental Assessment, Environmental Planning Division, LR 26:2517 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2487 (October 2005).

§509. Inspection Procedures

The following are the types of inspections made at solid waste processing or disposal facilities.

A. - B. …

C. Initial Start-Up InspectionCNewly Permitted Facilities

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

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

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

C.4. - E.3. …

F. Modification Start-Up InspectionsCAll Facilities

1. Start-up inspections for modified construction of a standard permitted facility shall be conducted after construction measures of the modification are completed and certification is submitted to the Office of Environmental Assessment, Environmental Technology Division, by a registered engineer licensed in the state of Louisiana, that the modified feature/unit has been constructed in accordance with the modification approved by the administrative authority and any conditions specified in such approval.

2. …

G. Closure Inspections. Closure inspections will be conducted within 30 days after the Office of Environmental Services, Water and Waste Permits Division, has received written notice from the permit holder that closure

requirements have been met in accordance with the approved closure plan and the permit holder has filed a request for a closure inspection. Closure inspections must be conducted before backfilling of a facility takes place. The administrative authority reserves the right to determine if a facility has been closed properly.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2517 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2487 (October 2005).

Subchapter B. Permit System for Facilities Classified for Upgrade or Closure

§511. Permit System

A. - A.2. …

a. Generators who are not processors or disposers of solid waste are not required to secure a permit. Generators of industrial solid waste must notify the Office of Environmental Services, Water and Waste Permits Division, in accordance with LAC 33:VII.503.A.1. Generators of industrial solid waste are subject to the applicable standards provided in LAC 33:VII.701.

b. Transporters who are not processors or disposers of solid waste are not required to secure a permit, but must notify the Office of Environmental Services, Water and Waste Permits Division, in accordance with LAC 33:VII.503.A.1. Transporters of solid waste are subject to the applicable standards provided in LAC 33:VII.705.

c. …

d. Pickup stations at which no solid waste is processed or disposed of are not required to secure a permit. Pickup stations are subject to the standards found in LAC 33:VII.703 and 707 and must notify the Office of Environmental Services, Water and Waste Permits Division, in accordance with LAC 33:VII.503.A.

B. - B.2. …

C. Existing Facilities Not Previously Classified or Not Presently Operating Under a Standard Permit

1. Only those existing facilities that the administrative authority classifies for upgrading may apply for a standard permit. The person(s) notifying the Office of Environmental Services, Water and Waste Permits Division, will be issued a temporary permit and may continue operations in accordance with the interim operational plan, pending a decision on the standard permit application.

C.2. - D.2. …

a. Processing and/or disposal facilities with an effective standard permit shall submit to the Office of Environmental Services, Water and Waste Permits Division, a new permit application at least 455 days before the expiration date of the standard permit, unless permission for later filing is granted by the administrative authority. If the reapplication is submitted on or before the deadline above, and the administrative authority does not issue a final decision on the reapplication on or before the expiration date of the standard permit, the standard permit shall remain in effect until the administrative authority issues a final decision.

D.2.b. - G.2. …

3. The applicant shall provide appropriate documentation to the Office of Environmental Services, Water and Waste Permits Division, that the proposed use does not violate zoning or other land-use regulations that exist at the time of the submittal of the standard permit application.

H. …

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 26:2518 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2488 (October 2005).

§513. Permit Process for Existing Facilities Classified for Upgrade and for Proposed Facilities

A. Applicant Public Notice

1. No sooner than 45 days prior to the submittal of a standard permit application to the Office of Environmental Services, Water and Waste Permits Division, the prospective applicant shall publish a notice of intent to submit an application for a standard permit. This notice shall be published one time as a single classified advertisement measuring 3 columns by 5 inches, in the legal or public notices section of the official journal of this state and in a major local newspaper of general circulation. If the affected area is Baton Rouge, a single classified advertisement measuring 3 columns by 5 inches, in the legal or public notices section of the official journal of the state will be the only public notice required.

A.2. - B.1. …

2. Submittal of Permit Applications

a. Any applicant for a standard permit for existing or proposed processing and disposal facilities shall complete Part I, Part II, and Part III of the standard permit application, following the instructions for the appropriate facility class in LAC 33:VII.519, 521, and 523, and submit four copies to the Office of Environmental Services, Water and Waste Permits Division. Each individual copy of the application shall be a standard three-ring-bound document measuring 8 1/2 by 11 inches. All appendices, references, exhibits, tables, etc., shall be marked with appropriate tabs.

b. …

c. The completed separate standard permit application for each existing facility shall be submitted to the Office of Environmental Services, Water and Waste Permits Division, within 180 days after issuance of the temporary permit.

C. Notices to Parish Governing Authorities. As provided in R.S. 30:2022, upon receipt of a permit application the Office of Environmental Services, Water and Waste Permits Division, shall provide written notice on the subject matter to the parish governing authority, who shall promptly notify each parish municipality affected by the application.

D. - D.3. …

E. Standard Permit Applications Deemed Unacceptable or Deficient

1. Applications deemed unacceptable for technical review will be rejected. For the administrative authority to reconsider the application, the applicant must resubmit the entire standard permit application to the Office of

Environmental Services, Water and Waste Permits Division, including the review fee, by a reasonable due date set by the administrative authority.

E.2. - F.2. …

3. After the five copies are submitted to the Office of Environmental Services, Water and Waste Permits Division, notices will be placed in the department's bulletin (if one is available), the official journal of the state, and in a major local newspaper of general circulation. The Office of Environmental Services, Water and Waste Permits Division, shall publish a notice of acceptance for review one time as a single classified advertisement measuring 3 columns by 5 inches in the legal or public notices section of the official journal of the state and one time as a classified advertisement in the legal or public notices section of a major local newspaper of general circulation. If the affected area is Baton Rouge, a single classified advertisement measuring 3 columns by 5 inches in the official journal of the state will be the only public notice required. The notices will solicit comment from interested individuals and groups. Comments received by the administrative authority within 30 days after the date the notice is published in the local newspaper will be reviewed by the Office of Environmental Services, Water and Waste Permits Division. The notice shall be published in accordance with the sample public notice provided by the Office of Environmental Services, Water and Waste Permits Division. The applicant is responsible for providing the Office of Environmental Services, Water and Waste Permits Division, with proof of publication.

4. …

5. Public Opportunity to Request a Hearing. Any person may, within 30 days after the date of publication of the newspaper notice (LAC 33:VII.513.F.3), request that the administrative authority consider whether a public hearing is necessary. If the administrative authority determines that the requests warrant it, a public hearing will be scheduled. If the administrative authority determines that the requests do not raise genuine and pertinent issues, the Office of Environmental Services, Water and Waste Permits Division, will send the person requesting the hearing written notification of the determination. The request for a hearing must be in writing and must contain the name and affiliation of the person making the request and the comments in support of or in objection to the issuance of a permit.

6. Public Notice of a Public Hearing. If the administrative authority determines that a hearing is necessary, notices will be published at least 20 days before a fact-finding hearing in the official journal of the state and in a major local newspaper of general circulation. The notice shall be published one time as a single classified advertisement measuring 3 columns by 5 inches in the legal or public notices section of the official journal of the state and one time as classified advertisement in the legal or public notices section of a major local newspaper of general circulation. If the affected area is Baton Rouge, a single classified advertisement measuring 3 columns by 5 inches in the official journal of the state will be the only public notice required. Those persons on the Office of Environmental Services, Water and Waste Permits Division's mailing list for hearings shall be mailed notice of the hearing at least 20 days before a public hearing. A notice shall also be published in the departmental bulletin, if available.

7. Receipt of Comments Following a Public Hearing. Comments received by the Office of Environmental Services, Water and Waste Permits Division, until the close of business 30 days after the date of a public hearing will be reviewed by the Office of Environmental Services, Water and Waste Permits Division.

G. - H. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2519 (November 2000), amended by the Office of Environmental Assessment, LR 30:2032 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2488 (October 2005).

§515. Permit Process for Existing Facilities Classified for Closure

A. Closure Plan Review and Evaluation. LAC 33:VII.505 and LAC 33:VII.Chapter 7 establish the evaluation criteria used by the Office of Environmental Services, Water and Waste Permits Division.

B. Submittal of Closure Plans

1. Permit holders for facilities classified for closure shall submit to the Office of Environmental Services, Water and Waste Permits Division, four bound copies of a closure plan within 60 days after issuance of the temporary permit for the facility. Each individual copy of the plan shall be a standard three-ring-bound document measuring 8 1/2 by 11 inches. All appendices, references, exhibits, tables, etc., shall be marked with appropriate tabs.

2. - 3. …

C. Closure Plans Determined Unacceptable or Deficient

1. Closure plans that are determined unacceptable for a technical review will be rejected. The permit holder will be required to resubmit the entire application to the Office of Environmental Services, Water and Waste Permits Division, including the review fee, by a date set by the administrative authority.

2. …

D. Closure Plans Deemed Technically Complete. Closure plans that have been deemed technically complete will be approved. Within 30 days after receipt of closure plan approval, the permit holder shall submit to the Office of Environmental Services, Water and Waste Permits Division, three copies of the closure plan which incorporate all revisions made during the closure plan review process. Additional copies will be required if deemed necessary by the administrative authority. Each copy shall be provided as a standard three-ring-bound document measuring 8 1/2 by 11 inches, and shall include appropriate tabbing for all appendices, figures, etc. Closure plans must incorporate revisions made during the review process. Closure plans that present revisions made during the review process as a separate supplement to the closure plan shall not be accepted.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning

Division, LR 26:2520 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2489 (October 2005).

§517. Permit Modifications

A. Modification of Permits and Other Authorizations to Operate

1. Modification Requests

a. The permit holder shall notify the Office of Environmental Services, Water and Waste Permits Division, in advance of any change in a facility or deviation from a permit. Such notification shall detail the proposed modification and shall include an assessment of the effects of the modification on the environment and/or the operation. Modification details shall include, but not be limited to, a summary detailing the modification request and all appropriate drawings, narratives, etc., which shall illustrate and describe the originally permitted representations and the proposed modifications thereto. New language requested in the permit narrative and existing language requested to be deleted from the permit narrative shall be identified therein.

i. Initially, four copies of all modification requests shall be provided to the Office of Environmental Services, Water and Waste Permits Division. Each individual copy of the document shall be 8 1/2 by 11 inches and shall be bound in standard three-ring binder(s).

ii. …

b. All notifications of proposed changes in ownership of a permit for a facility shall be done in accordance with LAC 33:I.Chapter 19.

2. - 2.a.xi. …

b. Permit modifications that require public notice and that have been determined by the Office of Environmental Services, Water and Waste Permits Division, to be technically complete will be accepted for public review. When the permit modification is accepted for public review, the permit holder must forward copies of the permit modification as follows:

i. two copies to the Office of Environmental Services, Water and Waste Permits Division's main office in Baton Rouge;

ii. - iv. …

c. The permit holder shall provide the Office of Environmental Services, Water and Waste Permits Division, with evidence that copies of the permit modification have been forwarded to the local parish governing authority and the parish public library.

d. After distribution of the permit modification, the permit holder is responsible for placing a notice in the official journal of the state and in a major local newspaper of general circulation. The notice shall be published one time as a single classified advertisement measuring 3 columns by 5 inches in the legal or public notices section of the official journal of the state, and one time as a classified advertisement in the legal or public notices section of a major local newspaper of general circulation. If the affected area is Baton Rouge, a single classified advertisement measuring 3 columns by 5 inches in the official journal of the state will be the only public notice required. The notice will solicit comments from interested individuals and groups. Comments delivered or received within 30 days after the date the notices are published will be reviewed by the Office of Environmental Services, Water and Waste Permits Division. The notice shall be published in accordance with a sample public notice provided by the Office of Environmental Services, Water and Waste Permits Division. The permit holder is responsible for providing the Office of Environmental Services, Water and Waste Permits Division, with proof of publication of the notice.

2.e. - 4. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2014.2.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, LR 25:661 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2520 (November 2000), amended by the Office of Environmental Assessment, LR 30:2033 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2430 (October 2005), LR 31:2490 (October 2005).

Chapter 7. Solid Waste Standards

Subchapter A. General Standards

§701. Standards Governing Industrial Solid Waste Generators

A. Annual Reports

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

2. - 3. …

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

A.5. - B.1. …

a. submit to the Office of Environmental Services, Water and Waste Permits Division, a generator notification form (which is to be provided by the administrative authority) that includes analysis, analytical data, and/or process knowledge which confirms that the waste is not a characteristic or listed hazardous waste as defined in LAC 33:Part V or by federal regulations; and

b. obtain an industrial waste code number from the Office of Environmental Services, Water and Waste Permits Division.

2. - 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 Environmental Assessment, Environmental Planning Division, LR 26:2521 (November 2000), repromulgated LR 27:703 (May 2001), amended by the Office of Environmental Assessment, LR 30:2024 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2490 (October 2005).

Subchapter B. Landfills, Surface Impoundments, Landfarms

§709. Standards Governing All Solid Waste Disposal Facilities (Type I and II)

A. - E.1.c.iii.(e).(v). …

d. Post Construction. Within 90 days after construction of the wells, the permit holder or applicant must submit to the Office of Environmental Services, Water and Waste Permits Division, well-completion details to verify that the wells were constructed according to the approved specifications and to document construction procedures. A

permit modification fee will not be required. Well-completion details should include, but are not limited to:

d.i. - e.ii.(c). …

(d). The permit holder must notify the Office of Environmental Services, Water and Waste Permits Division, of the plugging and abandonment of monitoring wells or geotechnical borings and keep records of such abandonments.

1.f. - 3.a. …

b. Initial Sampling

i. For a new facility, monitoring wells must be sampled and the analytical data for a sampling event must be submitted to the Office of Environmental Assessment, Environmental Technology Division, before waste is accepted.

ii. For an existing facility with no wells in place at the time of the application submittal or at the time at which the facility becomes subject to these regulations, the analytical data shall be submitted to the Office of Environmental Assessment, Environmental Technology Division, within 90 days after installation of the monitoring wells.

b.iii. - d. …

e. The permit holder or applicant must submit four bound copies (8 1/2 by 11 inches) of a report of all groundwater sampling results to the Office of Environmental Assessment, Environmental Technology Division, no later than 90 days after each sampling event. The reports must be submitted on forms provided by the administrative authority and shall include at a minimum:

e.i. - f.iii.(a). …

(b). submit a report to the Office of Environmental Assessment, Environmental Technology Division, demonstrating that a source other than the facility being sampled caused the contamination or that the statistically significant increase resulted from an error in sampling, analysis, statistical evaluation, or natural variation in groundwater quality.

3.f.iv. - 4.b.ii. …

c. No later than 90 days after the completion of the initial or subsequent sampling events for all LAC 33:VII.3005.Table 2 parameters or constituents required in Subparagraph E.4.b of this Section, the permit holder must submit a report to the Office of Environmental Assessment, Environmental Technology Division, identifying the LAC 33:VII.3005.Table 2 parameters or constituents that have been detected. No later than 180 days after completion of the initial or subsequent sampling events for all LAC 33:VII.3005.Table 2 parameters or constituents required in Subparagraph E.4.b of this Section, the permit holder must:

c.i. - e. …

f. If one or more LAC 33:VII.3005.Table 2 parameters or constituents are detected at statistically significant levels above the groundwater protection standard established under Subparagraph E.4.g of this Section, in any sampling event, using the statistical procedures in Subparagraph E.2.e of this Section, the permit holder must, within 14 days of the determination, notify all appropriate local government officials and submit a report to the Office of Environmental Assessment, Environmental Technology Division, identifying the LAC 33:VII.3005.Table 2 parameters or constituents that have exceeded the groundwater protection standard. The permit holder must also:

i. within 90 days after the determination is made, submit four bound copies (8 1/2 x 11 inches) of an assessment plan to the Office of Environmental Assessment, Environmental Technology Division, as well as any necessary permit modification, to the Office of Environmental Services, Water and Waste Permits Division, that provides for:

i.(a). - iv. …

v. may submit a report to the Office of Environmental Assessment, Environmental Technology Division, demonstrating that a source other than the facility being sampled caused the contamination, or the statistically significant increase resulted from error in sampling, analysis, statistical evaluation, or natural variation in groundwater quality. If the administrative authority approves this demonstration in writing, the permit holder must continue assessment monitoring at the facility in accordance with Paragraph E.4 of this Section, or may return to detection monitoring if the LAC 33:VII.3005.Table 2 parameters or constituents are below background as specified in Subparagraph E.4.d of this Section. Until such a written approval is given, the permit holder must comply with Subparagraph E.4.f of this Section, including initiating an assessment of corrective action measures.

4.g. - 7.a.ii. …

b. A permit holder may submit a report to the Office of Environmental Assessment, Environmental Technology Division, demonstrating, based on information developed after implementation of the corrective action plan has begun or other information, that compliance with requirements of Subparagraph E.6.b of this Section are not being achieved through the remedy selected. A revised corrective-action plan providing other methods or techniques that could practically achieve compliance with the requirements of Subparagraph E.6.b of this Section must accompany the demonstration.

c. …

d. The permit holder may submit a report to the Office of Environmental Assessment, Environmental Technology Division, demonstrating that compliance with the requirements under Subparagraph E.6.b of this Section cannot be achieved with any currently available methods.

e. If the administrative authority approves, in writing, the demonstration submitted pursuant to Subparagraph E.7.d of this Section, the permit holder must, within 30 days of the approval, submit a plan to the Office of Environmental Assessment, Environmental Technology Division, (which includes an implementation schedule) to implement alternate measures in accordance with LAC 33:I.Chapter 13:

7.e.i. - 8.b. …

c. If assessment monitoring parameters or constituents are detected at concentrations significantly different from background in the resampling event in Subparagraph E.4.b of this Section, the permit holder must, within 14 days of the determination, submit a report to the Office of Environmental Assessment, Environmental Technology Division, identifying the assessment monitoring parameters or constituents that are statistically different from background concentrations. The permit holder must also:

i. within 90 days after the determination is made, submit four bound copies (8 1/2 by 11 inches) of an assessment plan to the Office of Environmental Assessment, Environmental Technology Division, as well as any necessary permit modification, to the Office of Environmental Services, Water and Waste Permits Division, that provides for:

8.c.i.(a). - 10. …

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).

§711. Standards Governing Landfills (Type I and II)

A. - B.6.d. …

C. Facility Administrative Procedures

1. Recordkeeping and Reports

a. Reports

i. The permit holder shall submit annual reports to the Office of Management and Finance, Financial Services Division, indicating quantities and types of solid waste (expressed in wet-weight tons per year), received from in-state generators and from out-of-state generators, during the reporting period. The annual report shall also indicate the estimated remaining permitted capacity at the facility as of the end of the reporting period (expressed in wet-weight tons). All calculations used to determine the amounts of solid waste received for disposal during the annual-reporting period and to determine remaining capacity shall be submitted to the administrative authority. A form to be used for this purpose must be obtained from the Office of Management and Finance, Financial Services Division, or through the department's website.

1.a.ii. - 2.a. …

b. Facilities receiving residential and commercial solid waste shall have the numbers and levels of certified operators employed at the facility, as required by the *Louisiana Administrative Code*, Title 46, Part XXIII. Operator certificates shall be prominently displayed at the facility. The Board of Certification and Training for Solid Waste Disposal System Operators and the Office of Environmental Services, Water and Waste Permits Division, shall be notified within 30 days of any changes in the employment status of certified operators.

D. - D.3.a.i. …

ii. The permit holder or applicant subject to air-monitoring requirements shall submit to the Office of Environmental Services, Water and Waste Permits Division, a comprehensive air-monitoring plan that will limit methane gas to less than the lower-explosive limits at the facility boundary and to 25 percent of the lower-explosive limits in facility buildings.

ii.(a). - iii.(a). …

(b). within 30 days of detection, submit a remediation plan to the Office of Environmental Assessment, Environmental Technology Division, for the methane gas releases. The plan shall describe the nature and extent of the problems and the proposed remedy and shall include an implementation schedule. The plan must be implemented within 60 days of detection.

a.iv. - c.i. …

ii. A schedule of the type and frequency of vector control measures to be used shall be submitted to the Office of Environmental Services, Water and Waste Permits Division, for approval in the operational plan.

3.d. - 5.c. …

6. Facility Operations, Emergency Procedures, and Contingency Plans

a. A plan outlining facility operations and emergency procedures to be followed in case of accident, fire, explosion, or other emergencies shall be developed and filed with the Office of Environmental Services, Water and Waste Permits Division, and with the local fire department and the closest hospital or clinic. The plans shall be updated annually or when implementation demonstrates that a revision is needed.

b. Training sessions concerning the procedures outlined in Subparagraph D.6.a of this Section shall be conducted annually for all employees working at the facility. A copy of the training program shall be filed with the Office of Environmental Services, Water and Waste Permits Division.

E. Facility Closure Requirements

1. Notification of Intent to Close a Facility. All permit holders shall notify the Office of Environmental Services, Water and Waste Permits Division, in writing at least 90 days before closure or intent to close, seal, or abandon any individual units within a facility and shall provide the following information:

1.a. - 3.c. …

d. The permit holder shall update the parish mortgage and conveyance records by entering the specific location of the facility and specifying that the property was used for the disposal of solid waste. The document shall identify the name and address of the person with knowledge of the contents of the facility. A form to be used for this purpose is provided in LAC 33:VII.311. The facility shall provide the Office of Environmental Services, Water and Waste Permits Division, with a true copy of the document filed and certified by the parish clerk of court.

E.4. - F.3. …

a. maintaining the integrity and effectiveness of the final cover (including making repairs to the cover as necessary to correct the effects of settling, subsidence, erosion, or other events), preventing run-on and runoff from eroding or otherwise damaging the final cover; and providing annual reports to the Office of Environmental Compliance, Surveillance Division, on the integrity of the final cap;

b. - d. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 19:1143 (September 1993), repromulgated LR 19:1316 (October 1993), amended by the Office of the Secretary, LR 24:2251 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2523 (November 2000), repromulgated LR 27:704 (May 2001), amended LR 30:1676 (August 2004), amended by the Office of Environmental

Assessment, LR 30:2024 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2492 (October 2005).

§713. Standards Governing Surface Impoundments (Type I and II)

A. - B.4.d. …

C. Facility Administrative Procedures

1. Recordkeeping and Reports

a. Reports

i. The permit holder shall submit annual reports to the Office of Management and Finance, Financial Services Division, indicating quantities and types of solid waste (expressed in wet-weight tons per year), received from in-state generators and from out-of-state generators, during the reporting period. If applicable, the annual report shall also indicate the estimated remaining permitted capacity at the facility as of the end of the reporting period (expressed in wet-weight tons). All calculations used to determine the amounts of solid waste received for disposal and to determine remaining capacity during the annual-reporting period shall be submitted to the administrative authority. A form to be used for this purpose must be obtained from the Office of Management and Finance, Financial Services Division, or through the department's website.

1.a.ii. - 2.a. …

b. Facilities receiving residential and commercial solid waste shall have the numbers and levels of certified operators employed at the facility, as required by the *Louisiana Administrative Code*, Title 46, Part XXIII. Operator certificates shall be prominently displayed at the facility. The Board of Certification and Training for Solid Waste Disposal System Operators and the Office of Environmental Services, Water and Waste Permits Division, shall be notified within 30 days of any changes in the employment status of certified operators.

D. - D.3.a.i. …

ii. The permit holder or applicant subject to air-monitoring requirements shall submit to the Office of Environmental Services, Water and Waste Permits Division, a comprehensive air-monitoring plan that will limit methane gas levels to less than the lower-explosive limits at the facility boundary and to 25 percent of the lower-explosive limits in facility buildings.

3.a.ii.(a). - 4. …

5. Facility Operations, Emergency Procedures, and Contingency Plans

a. A plan outlining facility operations and emergency procedures to be followed in case of accident, fire, explosion, or other emergencies shall be developed and filed with the Office of Environmental Services, Water and Waste Permits Division, and with the local fire department and the closest hospital or clinic. The plans shall be updated annually or when implementation demonstrates that a revision is needed.

b. Training sessions concerning the procedures outlined in Subparagraph D.5.a of this Section shall be conducted annually for all employees working at the facility. A copy of the training program shall be filed with the Office of Environmental Services, Water and Waste Permits Division.

E. Facility Closure Requirements

1. Notification of Intent to Close a Facility. All permit holders shall notify the Office of Environmental Services, Water and Waste Permits Division, in writing at least 90 days before closure or intent to close, seal, or abandon any individual units within a facility and shall provide the following information:

1.a. - 3.b.v. …

vi. analyses to be sent to the Office of Environmental Services, Water and Waste Permits Division, confirming that clean closure has been achieved;

vii. …

viii. a statement from the permit holder indicating that, after the closure requirements have been met, the permit holder will file a request for a closure inspection with the Office of Environmental Services, Water and Waste Permits Division, before backfilling takes place. The administrative authority will determine whether the facility has been closed properly.

E.3.c. - F.2.b. …

i. maintaining the integrity and effectiveness of the final cover (including making repairs to the cover as necessary to correct the effects of settling, subsidence, erosion, or other events), preventing run-on and runoff from eroding or otherwise damaging the final cover; and providing annual reports to the Office of Environmental Compliance, Surveillance Division, on the integrity of the final cap;

ii. - iv. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), repromulgated LR 19:1316 (October 1993), amended by the Office of the Secretary, LR 24:2251 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2524 (November 2000), repromulgated LR 27:704 (May 2001), amended LR 30:1676 (August 2004), amended by the Office of Environmental Assessment, LR 30:2025 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2493 (October 2005).

§715. Standards Governing Landfarms (Type I and II)

A. - B.2.b. …

C. Facility Administrative Procedures

1. Recordkeeping and Reports

a. Reports

i. The permit holder shall submit annual reports to the Office of Management and Finance, Financial Services Division, indicating quantities and types of solid waste (expressed in wet-weight and dry-weight tons per year) received from in-state generators and from out-of-state generators during the reporting period. The annual report shall also indicate the estimated remaining permitted capacity at the facility as of the end of the reporting period (expressed in wet-weight tons). All calculations used to determine the amounts of solid waste received for disposal during the annual-reporting period shall be submitted to the administrative authority. A form to be used for this purpose must be obtained from the Office of Management and Finance, Financial Services Division, or through the department's website.

a.ii. - b.iii.(o). …

(p). a copy of the semiannual soil waste mixtures tests and analyses of the results with conclusions shall be submitted semiannually to the Office of Environmental Assessment, Environmental Technology Division, or more

frequently if deemed necessary by the administrative authority;

(q). – (r). …

(s). annual reports shall be submitted to the Office of Environmental Assessment, Environmental Technology Division, for a minimum of three years (Type II landfarms) and 10 years (Type I landfarms) after closure and shall contain analyses of all test results of the soils. The post-closure monitoring annual reporting may be reduced for certain types of landfarms if the permit-holder demonstrates to the administrative authority's satisfaction that such is warranted.

2. - 2.a. …

b. Facilities receiving residential and commercial solid waste shall have the numbers and levels of certified operators employed at the facility, as required by the *Louisiana Administrative Code*, Title 46, Part XXIII. Operator certificates shall be prominently displayed at the facility. The Board of Certification and Training for Solid Waste Disposal System Operators and the Office of Environmental Services, Water and Waste Permits Division, shall be notified within 30 days of any changes in the employment status of certified operators.

D. - D.3.a.i. …

ii. The permit holder or applicant subject to air-monitoring requirements shall submit to the Office of Environmental Services, Water and Waste Permits Division, a comprehensive air-monitoring plan that will limit methane gas levels to less than the lower-explosive limits at the facility boundary and to 25 percent of the lower-explosive limits in facility buildings.

a.ii.(a). - k.ii.(a). …

(b). An operating plan for the facility shall be filed with the Office of Environmental Services, Water and Waste Permits Division, that demonstrates how the animal feed will be distributed to preclude ingestion by humans and that describes the measures to be taken to safeguard against possible health hazards from the entry of cadmium or other heavy metals into the food chain, as may result from alternative land use.

3.k.ii.(c). - 4. …

5. Facility Operations, Emergency Procedures, and Contingency Plans

a. A plan outlining facility operations and emergency procedures to be followed in case of accident, fire, explosion, or other emergencies shall be developed and filed with the Office of Environmental Services, Water and Waste Permits Division, and with the local fire department and the closest hospital or clinic. The plans shall be updated annually or when implementation demonstrates that a revision is needed.

b. Training sessions concerning the procedures outlined in Subparagraph D.5.a of this Section shall be conducted annually for all employees working at the facility. A copy of the training program shall be filed with the Office of Environmental Services, Water and Waste Permits Division.

E. Facility Closure Requirements

1. Notification of Intent to Close a Facility. All permit holders shall notify the Office of Environmental Services, Water and Waste Permits Division, in writing at least 90 days before closure or intent to close, seal, or abandon any individual units within a facility and shall provide the following information:

E.1.a. - F.3.a. …

b. Annual reports shall be submitted to the Office of Environmental Compliance, Surveillance Division, for a period of three years after closure and shall contain results of analysis of all soil/waste.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), repromulgated LR 19:1316 (October 1993), amended by the Office of the Secretary, LR 24:2251 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2525 (November 2000), repromulgated LR 27:704 (May 2001), amended LR 30:1676 (August 2004), amended by the Office of Environmental Assessment, LR 30:2025 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2493 (October 2005).

Subchapter C. Solid Waste Processors

§717. Standards Governing All Solid Waste Processors (Type I-A and II-A)

A. - E.2.b. …

F. Facility Administrative Procedures

1. Recordkeeping and Reports

a. Reports

i. The permit holder shall submit annual reports to the Office of Management and Finance, Financial Services Division, indicating quantities and types of solid waste (expressed in wet-weight tons per year), received from in-state generators and from out-of-state generators, during the reporting period. All calculations used to determine the amounts of solid waste received for processing during the annual-reporting period shall be submitted to the administrative authority. A form to be used for this purpose must be obtained from the Office of Management and Finance, Financial Services Division, or through the department's website.

1.a.ii. - 2.a. …

b. Facilities receiving residential and commercial solid waste shall have the numbers and levels of certified operators employed at the facility, as required by the *Louisiana Administrative Code*, Title 46, Part XXIII. Operator certificates shall be prominently displayed at the facility. The Board of Certification and Training for Solid Waste Disposal System Operators and the Office of Environmental Services, Water and Waste Permits Division, shall be notified within 30 days of any changes in the employment status of certified operators.

G. - G.3.h.i. …

ii. Testing

(a). Testing procedures, schedules, and methods must be submitted to the Office of Environmental Services, Water and Waste Permits Division, for review and approval before disposal operations begin. Disposal of ash shall be only in a permitted Type I facility. Processing of ash shall be only in a permitted Type I-A facility.

3.h.ii.(b). - 5. …

a. A plan outlining facility operations and emergency procedures to be followed in case of accident, fire, explosion, or other emergencies shall be developed and filed with the Office of Environmental Services, Water and

Waste Permits Division, and with the local fire department and the closest hospital or clinic. The plans shall be updated annually or when implementation demonstrates that a revision is needed.

b. Training sessions concerning the procedures outlined in Subparagraph G.5.a of this Section shall be conducted annually for all employees working at the facility. A copy of the training program shall be filed with the Office of Environmental Services, Water and Waste Permits Division.

H. …

I. Facility Closure Requirements

1. Notification of Intent to Close a Facility. All permit holders shall notify the Office of Environmental Services, Water and Waste Permits Division, in writing at least 90 days before closure or intent to close, seal, or abandon any individual units within a facility and shall provide the following information:

1.a. - 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).

Subchapter D. Minor Processing and Disposal Facilities

§719. Standards Governing All Minor Processing and Disposal Facilities (Type III)

A. - D.1. …

2. A design for surfacing natural soils that do not meet the requirement in Paragraph D.l of this Section shall be prepared and installed under the supervision of a registered engineer, licensed in the state of Louisiana, with expertise in geotechnical engineering and geohydrology. Written certification by the engineer that the surface satisfies the requirements of Paragraph D.l of this Section shall be provided to the Office of Environmental Services, Water and Waste Permits Division.

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), 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).

§721. Construction and Demolition Debris and Woodwaste Landfills and Processing Facilities (Type III)

A. - A.3.b. …

B. Facility Administrative Procedures

1. Recordkeeping and Reports

a. Reports

i. The permit holder shall submit annual reports to the Office of Management and Finance, Financial Services Division, indicating quantities and types of solid waste (expressed in wet-weight tons per year), received from in-state generators and from out-of-state generators, during the reporting period. All calculations used to determine the amounts of solid waste received for processing or disposal during the annual-reporting period shall be submitted to the administrative authority. A form to be used for this purpose must be obtained from the Office of Management and Finance, Financial Services Division, or through the department's website.

1.a.ii. - 2. …

3. Type III facilities receiving construction and demolition debris and woodwaste shall have the number and levels of certified operators employed at the facility as required by the *Louisiana Administrative Code*, Title 46, Part XXIII. Operator certificates shall be prominently displayed at the facility. The Board of Certification and Training for Solid Waste Disposal System Operators and the Office of Environmental Services, Water and Waste Permits Division, shall be notified within 30 days of any changes in the employment status of certified operators.

B.3.a. - C.4. …

5. Facility Operations, Emergency Procedures, and Contingency Plans

a. A plan outlining facility operations and emergency procedures to be followed in case of accident, fire, explosion, or other emergencies shall be developed and filed with the Office of Environmental Services, Water and Waste Permits Division, and with the local fire department and the closest hospital or clinic. The plans shall be updated annually or when implementation demonstrates that a revision is needed.

b. Training sessions concerning the procedures outlined in Subparagraph C.5.a of this Section shall be conducted annually for all employees working at the facility. A copy of the training program shall be filed with the Office of Environmental Services, Water and Waste Permits Division.

D. Facility Closure Requirements

1. Notification of Intent to Close a Facility. All permit holders shall notify the Office of Environmental Services, Water and Waste Permits Division, in writing at least 90 days before closure or intent to close, seal, or abandon any individual units within a facility and shall provide the following information:

1.a. - 3.b. …

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

D.4. - E.2. …

3. Annual reports concerning the integrity of the cap shall be submitted to the Office of Environmental Compliance, Surveillance Division, for a period of three years after closure.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid

Waste Division, LR 19:187 (February 1993), amended LR 20:1001 (September 1994), amended by the Office of the Secretary, LR 24:2252 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2527 (November 2000), repromulgated LR 27:705 (May 2001), amended by the Office of Environmental Assessment, LR 30:2025 (September 2004), LR 31:1577 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2495 (October 2005).

§723. Composting Facilities (Type III)

A. - A.3.b. …

B. Facility Administrative Procedures

1. Recordkeeping and Reports

a. Reports

i. The permit holder shall submit annual reports to the Office of Management and Finance, Financial Services Division, indicating quantities and types of solid waste (expressed in wet-weight tons per year), received from in-state generators and from out-of-state generators, during the reporting period. All calculations used to determine the amounts of solid waste received for processing during the annual-reporting period shall be submitted to the administrative authority. A form to be used for this purpose must be obtained from the Office of Management and Finance, Financial Services Division, or through the department's website.

1.a.ii. - 2. …

3. Type III facilities receiving solid waste for composting shall have the number and levels of certified operators employed at the facility as required by the *Louisiana Administrative Code*, Title 46, Part XXIII. Operator certificates shall be prominently displayed at the facility. The Board of Certification and Training for Solid Waste Disposal System Operators and the Office of Environmental Services, Water and Waste Permits Division, shall be notified within 30 days of any changes in the employment status of certified operators.

C. - C.6.b. …

D. Facility Closure Requirements

1. Notification of Intent to Close a Facility. All permit holders shall notify the Office of Environmental Services, Water and Waste Permits Division, in writing at least 90 days before closure or intent to close, seal, or abandon any individual units within a facility and shall provide the following information:

D.1.a. - 2.b. …

c. The permit holder shall verify that the underlying soils have not been contaminated in the operation of the facility. If contamination exists, a remediation/removal program developed to meet the standards of LAC 33:VII.713.E.3, 4, and 5 must be provided to the Office of Environmental Services, Water and Waste Permits Division.

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 LR 20:1001 (September 1994), amended by the Office of the Secretary, LR 24:2252 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2528 (November 2000), repromulgated LR 27:705 (May 2001), amended by the Office of Environmental Assessment, LR 30:2025 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2496 (October 2005).

§725. Separation and Woodwaste Processing Facilities (Type III)

A. - A.2.b. …

B. Facility Administration Procedures

1. Recordkeeping and Reports

a. Reports

i. The permit holder shall submit annual reports to the Office of Management and Finance, Financial Services Division, indicating quantities and types of solid waste (expressed in wet-weight tons per year), received from in-state generators and from out-of-state generators, during the reporting period. All calculations used to determine the amounts of solid waste received for processing during the annual-reporting period shall be submitted to the administrative authority. A form to be used for this purpose must be obtained from the Office of Management and Finance, Financial Services Division, or through the department's website.

a.ii. - b.i. …

ii. The permit holder shall maintain records of transporters transporting waste for processing or disposal at the facility. The records shall include the date of receipt of shipments of waste and the transporter's solid waste identification number issued by the Office of Environmental Services, Water and Waste Permits Division.

1.b.iii. - 2. …

3. Type III facilities receiving solid waste for separation shall have the number and levels of certified operators employed at the facility as required by the *Louisiana Administrative Code*, Title 46, Part XXIII. Operator certificates shall be prominently displayed at the facility. The Board of Certification and Training for Solid Waste Disposal System Operators and the Office of Environmental Services, Water and Waste Permits Division, shall be notified within 30 days of any changes in the employment status of certified operators.

C. - C.4. …

5. Facility Operations, Emergency Procedures, and Contingency Plans

a. A plan outlining facility operations and emergency procedures to be followed in case of accident, fire, explosion, or other emergencies shall be developed and filed with the Office of Environmental Services, Water and Waste Permits Division, and with the local fire department and the closest hospital or clinic. The plans shall be updated annually or when implementation demonstrates that a revision is needed.

b. Training sessions concerning the procedures outlined in Subparagraph C.5.a of this Section shall be conducted annually for all employees working at the facility. A copy of the training program shall be filed with the Office of Environmental Services, Water and Waste Permits Division.

D. Facility Closure Requirements

1. Notification of Intent to Close a Facility. All permit holders shall notify the Office of Environmental Services, Water and Waste Permits Division, in writing at least 90 days before closure or intent to close, seal, or abandon any individual units within a facility and shall provide the following information:

1.a. - 2.b. …

c. The permit holder shall verify that the underlying soils have not been contaminated from the operation of the facility. If contamination exists, a remediation/removal program developed to meet the standards of LAC 33:VII.713.E.3, 4, and 5 must be provided to the Office of Environmental Services, Water and Waste Permits Division.

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 LR 20:1001 (September 1994), LR 22:280 (April 1996), amended by the Office of the Secretary, LR 24:2252 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2528 (November 2000), repromulgated LR 27:705 (May 2001), amended by the Office of Environmental Assessment, LR 30:2026 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2496 (October 2005).

Subchapter E. Financial Assurance for All Processors and Disposers of Solid Waste

§727. Financial Assurance

A. - A.1. …

a. Permit holders or applicants for Type I and II facilities shall maintain liability insurance, or its equivalent, for sudden and accidental occurrences in the amount of $1 million per occurrence and $1 million annual aggregate, per site, exclusive of legal-defense costs, for claims arising from injury to persons or property, owing to the operation of the site. Evidence of this coverage shall be updated annually and provided to the Office of Environmental Services, Water and Waste Permits Division.

b. Permit holders or applicants for Type I-A and II-A facilities shall maintain liability insurance, or its equivalent, for sudden and accidental occurrences in the amount of $500,000 per occurrence, and $500,000 annual aggregate, per site, exclusive of legal-defense costs, for claims arising from injury to persons or property, owing to the operation of the site. Evidence of this coverage shall be updated annually and provided to the Office of Environmental Services, Water and Waste Permits Division.

c. Permit holders or applicants for Type III facilities shall maintain liability insurance, or its equivalent, for sudden and accidental occurrences in the amount of $250,000 per occurrence, and $250,000 annual aggregate, per site, exclusive of legal-defense costs, for claims arising from injury to persons or property, owing to the operation of the site. Evidence of this coverage shall be updated annually and provided to the Office of Environmental Services, Water and Waste Permits Division.

d. - d.i.(c).(iii). …

(iv). cancellation of the policy, whether by the insurer or the insured, will be effective only upon written notice and upon lapse of 60 days after a copy of such written notice is received by the Office of Environmental Services, Water and Waste Permits Division;

(v). any other termination of the policy will be effective only upon written notice and upon lapse of 30 days after a copy of such written notice is received by the Office of Environmental Services, Water and Waste Permits Division;

(vi). …

(d). The wording of the liability endorsement shall be identical to the wording that follows, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

SOLID WASTE FACILITY
LIABILITY ENDORSEMENT

Secretary
Louisiana Department of Environmental Quality
Post Office Box 4313
Baton Rouge, Louisiana 70821-4313
Attention: Office of Environmental Services,
Water and Waste Permits Division
Dear Sir:

* * *

[See Prior Text in Letter]

(e). The wording of the certificate of insurance shall be identical to the wording that follows, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

SOLID WASTE FACILITY
CERTIFICATE OF LIABILITY INSURANCE

Secretary
Louisiana Department of Environmental Quality
Post Office Box 4313
Baton Rouge, Louisiana 70821-4313
Attention: Office of Environmental Services,
Water and Waste Permits Division
Dear Sir:

* * *

[See Prior Text in Letter]

ii. - ii.(c). …

(d). The letter of credit must be irrevocable and issued for a period of at least one year unless, at least 120 days before the current expiration date, the issuing institution notifies both the permit holder and the administrative authority by certified mail of a decision not to extend the expiration date. Under the terms of the letter of credit, the 120 days will begin on the date when both the permit holder and the Office of Environmental Services, Water and Waste Permits Division, receive the notice, as evidenced by the return receipts.

(e). The wording of the letter of credit shall be identical to the wording that follows, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

SOLID WASTE FACILITY
IRREVOCABLE LETTER OF CREDIT

Secretary
Louisiana Department of Environmental Quality
Post Office Box 4313
Baton Rouge, Louisiana 70821-4313
Attention: Office of Environmental Services,
Water and Waste Permits Division
Dear Sir:

* * *

[See Prior Text in Letter]

iii. Financial Test

(a). To meet this test, the applicant, permit holder, parent corporation of the applicant (corporate guarantor), or permit holder must submit to the Office of Environmental Services, Water and Waste Permits Division, the documents required by Paragraph A.2 of this Section demonstrating that the requirements of that Subsection have been met. Use of the financial test may be disallowed on the basis of the accessibility of the assets of the permit holder,

applicant, or parent corporation (corporate guarantor). If the applicant, permit holder, or parent corporation is using the financial test to demonstrate liability coverage and closure and post-closure care, only one letter from the chief financial officer is required.

iii.(b). - iv.(a).(iii). …

(iv). the guarantor agrees that if, at the end of any fiscal year before termination of the guarantee, the guarantor fails to meet the financial-test criteria, the guarantor shall send within 90 days, by certified mail, notice to the Office of Environmental Services, Water and Waste Permits Division, and to the permit holder or applicant, that he intends to provide alternative financial assurance as specified in Paragraph A.1 of this Section, in the name of the permit holder or applicant, and that within 120 days after the end of said fiscal year the guarantor shall establish such financial assurance, unless the permit holder or applicant has done so;

(v). the guarantor agrees to notify the Office of Environmental Services, Water and Waste Permits Division, by certified mail of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming the guarantor as debtor, within 10 days after commencement of the proceeding;

(vi). - (xi). …

(b). A corporate guarantee may be used to satisfy the requirements of this Section only if the attorney general(s) or insurance commissioner(s) of the state in which the guarantor is incorporated, and the state in which the facility covered by the guarantee is located, has submitted a written statement to the Office of Environmental Services, Water and Waste Permits Division, that a corporate guarantee is a legally valid and enforceable obligation in that state.

1.e. - 2.a. …

b. The applicant or permit holder shall submit to the Office of Environmental Services, Water and Waste Permits Division, the estimated closure date and the estimated cost of closure and post-closure care in accordance with the following procedures.

i. - ii. …

iii. The cost estimates must be adjusted within 30 days after each anniversary of the date on which the first cost estimate was prepared on the basis of either the inflation factor derived from the Annual Implicit Price Deflator for Gross Domestic Product, as published by the U.S. Department of Commerce in its *Survey of Current Business* or a reestimation of the closure and post-closure costs in accordance with Clauses A.2.b.i and ii of this Section. The permit holder or applicant must revise the cost estimate whenever a change in the closure/post-closure plans increases or decreases the cost of the closure plan. The permit holder or applicant must submit a written notice of any such adjustment to the Office of Environmental Services, Water and Waste Permits Division, within 15 days following such adjustment.

b.iv. - c.iv. …

d. Trust Funds. A permit holder or applicant may satisfy the requirements of this Section by establishing a closure trust fund that conforms to the following requirements and submitting an originally signed duplicate of the trust agreement to the Office of Environmental Services, Water and Waste Permits Division.

i. - vii. …

viii. After beginning final closure, a permit holder, or any other person authorized by the permit holder to perform closure and/or post-closure may request reimbursement for closure and/or post-closure expenditures by submitting itemized bills to the Office of Environmental Services, Water and Waste Permits Division. Within 60 days after receiving bills for such activities, the administrative authority will determine whether the closure and/or post-closure expenditures are in accordance with the closure plan or otherwise justified, and if so, he or she will instruct the trustee to make reimbursement in such amounts as the administrative authority specifies in writing. If the administrative authority has reason to believe that the cost of closure and/or post-closure will be significantly greater than the value of the trust fund, he may withhold reimbursement for such amounts as he deems prudent until he determines that the permit holder is no longer required to maintain financial assurance.

ix. The wording of the trust agreement shall be identical to the wording that follows, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted. The trust agreement shall be accompanied by a formal certification of acknowledgement.

SOLID WASTE FACILITY
TRUST AGREEMENT/STANDBY TRUST AGREEMENT

* * *

[See Prior Text in Document]

e. Surety Bonds. A permit holder or applicant may satisfy the requirements of this Section by obtaining a surety bond that conforms to the following requirements and submitting the bond to the Office of Environmental Services, Water and Waste Permits Division.

i. - v. …

vi. Whenever the current cost-estimate increases to an amount greater than the penal sum, the permit holder, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current closure and post-closure estimate and submit evidence of such increase to the Office of Environmental Services, Water and Waste Permits Division, or obtain other financial assurance as specified in this Section to cover the increase. Whenever the current cost estimate decreases, the penal sum may be reduced to the amount of the current cost estimate following written approval by the administrative authority.

vii. …

viii. The wording of the surety bond guaranteeing payment into a standby trust fund shall be identical to the wording that follows, except that the instructions in brackets are to be replaced with the relevant information and the brackets delete.

SOLID WASTE FACILITY
FINANCIAL GUARANTEE BOND

* * *

[See Prior Text in Document]

f. Performance Bonds. A permit holder or applicant may satisfy the requirements of this Section by obtaining a surety bond that conforms to the following requirements and submitting the bond to the Office of Environmental Services, Water and Waste Permits Division.

i. - v. …

vi. Whenever the current closure cost estimate increases to an amount greater than the penal sum, the permit holder, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current closure and post-closure cost estimates and submit evidence of such increase to the Office of Environmental Services, Water and Waste Permits Division, or obtain other financial assurance as specified in this Section. Whenever the current cost estimate decreases, the penal sum may be reduced to the amount of the current cost estimate after written approval of the administrative authority.

vii. Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the permit holder and to the Office of Environmental Services, Water and Waste Permits Division. Cancellation may not occur before 120 days have elapsed beginning on the date that both the permit holder and the administrative authority receive the notice of cancellation, as evidenced by the return receipts.

viii. The wording of the performance bond shall be identical to the wording that follows, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

SOLID WASTE FACILITY

PERFORMANCE BOND

* * *

[See Prior Text in Document]

g. Letter of Credit. A permit holder or applicant may satisfy the requirements of this Section by obtaining an irrevocable standby letter of credit that conforms to the following requirements and submitting the letter to the Office of Environmental Services, Water and Waste Permits Division.

i. - iii. …

iv. The letter of credit must be irrevocable and issued for a period of at least one year, unless, at least 120 days before the current expiration date, the issuing institution notifies both the permit holder and the Office of Environmental Services, Water and Waste Permits Division, by certified mail of a decision not to extend the expiration date. Under the terms of the letter of credit, the 120 days will begin on the date when both the permit holder and the administrative authority receive the notice, as evidenced by the return receipts.

v. …

vi. Whenever the current cost estimates increase to an amount greater than the amount of the credit, the permit holder, within 60 days after the increase, must either cause the amount of the credit to be increased so that it at least equals the current closure and post-closure cost estimates and submit evidence of such increase to the Office of Environmental Services, Water and Waste Permits Division, or obtain other financial assurance as specified in this Section to cover the increase. Whenever the current cost estimate decreases, the amount of the credit may be reduced to the amount of the current closure and post-closure cost estimates upon written approval of the administrative authority.

vii. …

viii. The wording of the letter of credit shall be identical to the wording that follows, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

SOLID WASTE FACILITY

IRREVOCABLE LETTER OF CREDIT

Secretary
Louisiana Department of Environmental Quality
Post Office Box 4313
Baton Rouge, Louisiana 70821-4313
Attention: Office of Environmental Services,
Water and Waste Permits Division
Dear Sir:

* * *

[See Prior Text in Letter]

h. Insurance. A permit holder or applicant may satisfy the requirements of this Section by obtaining insurance that conforms to the requirements of this Subparagraph and submitting a certificate of such insurance to the Office of Environmental Services, Water and Waste Permits Division.

i. - iv. …

v. After beginning final closure, a permit holder or any other person authorized by the permit holder to perform closure and post-closure may request reimbursement for closure or post-closure expenditures by submitting itemized bills to the Office of Environmental Services, Water and Waste Permits Division. Within 60 days after receiving such bills, the administrative authority will determine whether the expenditures are in accordance with the closure plan or otherwise justified, and if so, he or she will instruct the insurer to make reimbursement in such amounts as the administrative authority specifies in writing.

vi. - vii. …

viii. The policy must provide that the insurer may not cancel, terminate, or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy must, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may elect to cancel, terminate, or fail to renew the policy by sending notice by certified mail to the permit holder and the Office of Environmental Services, Water and Waste Permits Division. Cancellation, termination, or failure to renew may not occur, however, before 120 days have elapsed, beginning on the date that both the administrative authority and the permit holder receive notice of cancellation, as evidenced by the return receipts. Cancellation, termination, or failure to renew may not occur, and the policy will remain in full force and effect in the event that, on or before the date of expiration:

(a). - (e). …

ix. Whenever the current cost estimate increases to an amount greater than the face amount of the policy, the permit holder, within 60 days after the increase, must either increase the face amount to at least equal to the current closure and post-closure cost estimates and submit evidence of such increase to the Office of Environmental Services, Water and Waste Permits Division, or obtain other financial assurance as specified in this Section to cover the increase. Whenever the current cost estimate decreases, the face amount may be reduced to the amount of the current closure

and post-closure cost estimates following written approval by the administrative authority.

h.x. - i.i.(b).(iii). …

ii. To demonstrate that he or she meets this test, the permit holder, applicant, or parent corporation of the permit holder or applicant must submit the following three items to the Office of Environmental Services, Water and Waste Permits Division:

ii.(a). - iii. …

iv. The permit holder, applicant, or parent corporation (if a corporate guarantor) of the permit holder or applicant shall provide to the Office of Environmental Services, Water and Waste Permits Division, a letter from the chief financial officer certifying the following information:

(a). - (d). …

(e). The wording of the letter from the chief financial officer shall be identical to the wording as follows, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

SOLID WASTE FACILITY

LETTER FROM THE CHIEF FINANCIAL OFFICER

(Liability Coverage, Closure, and/or Post-Closure)

Secretary
Louisiana Department of Environmental Quality
Post Office Box 4313
Baton Rouge, Louisiana 70821-4313
Attention: Office of Environmental Services,
Water and Waste Permits Division
Dear Sir:

* * *

[See Prior Text in Letter]

v. - vi. …

vii. After initial submission of the items specified in Clause A.2.i.ii of this Section, the permit holder, applicant, or parent corporation of the permit holder or applicant must send updated information to the Office of Environmental Services, Water and Waste Permits Division, within 90 days after the close of each succeeding fiscal year. This information must include all three items specified in Clause A.2.i.ii of this Section.

viii. - ix.(d). …

(e). guarantor agrees that if, at the end of any fiscal year before termination of the guarantee, the guarantor fails to meet the financial test criteria, the guarantor shall send within 90 days after the end of the fiscal year, by certified mail, notice to the Office of Environmental Services, Water and Waste Permits Division, and to the permit holder or applicant that he intends to provide alternative financial assurance as specified in Paragraph A.2 of this Section, in the name of the permit holder or applicant, and that within 120 days after the end of such fiscal year, the guarantor shall establish such financial assurance unless the permit holder or applicant has done so;

(f). the guarantor agrees to notify the Office of Environmental Services, Water and Waste Permits Division, by certified mail of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming the guarantor as debtor, within 10 days after commencement of the proceeding;

(g). - (h). …

(i). the guarantor agrees to remain bound under the guarantee for as long as the permit holder must comply with the applicable financial assurance requirements of Paragraph A.2 of this Section for the above-listed facilities, except that the guarantor may cancel this guarantee by sending notice by certified mail to the Office of Environmental Services, Water and Waste Permits Division, and the permit holder or applicant. The cancellation will become effective no earlier than 90 days after receipt of such notice by both the administrative authority and the permit holder or applicant, as evidenced by the return receipts;

i.ix.(j). - j.iii.(d).(ii). …

(e). A local government must satisfy the requirements of the financial test at the close of each fiscal year. If the local government owner or operator no longer meets the requirements of the local government financial test, it must, within 210 days following the close of the owner or operator's fiscal year, obtain alternative financial assurance that meets the requirements of this Section, place the required submissions for that assurance in the operating record, and notify the Office of Environmental Services, Water and Waste Permits Division, that the owner or operator no longer meets the criteria of the financial test and that alternate assurance has been obtained.

j.iii.(f). - k.i.(a).(ii). …

(b). the guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator and to the Office of Environmental Services, Water and Waste Permits Division. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the administrative authority, as evidenced by the return receipts; and

(c). if a guarantee is canceled, the owner or operator must, within 90 days following receipt of the cancellation notice by the owner or operator and the administrative authority, obtain alternate financial assurance, place evidence of that alternate financial assurance in the facility operating record, and notify the Office of Environmental Services, Water and Waste Permits Division. If the owner or operator fails to provide alternate financial assurance within the 90-day period, then the owner or operator must provide that alternate assurance within 120 days following the guarantor's notice of cancellation, place evidence of the alternate assurance in the facility operating record, and notify the Office of Environmental Services, Water and Waste Permits Division.

ii. - ii.(b).(ii). …

(c). If a local government guarantor no longer meets the requirements of Subparagraph A.2.j of this Section, the owner or operator must, within 90 days, obtain alternate assurance, place evidence of the alternate assurance in the facility operating record, and notify the Office of Environmental Services, Water and Waste Permits Division. If the owner or operator fails to obtain alternate financial assurance within that 90-day period, the guarantor must provide that alternate assurance within the next 30 days.

l. - m. …

i. the administrative authority determines that cost estimates are complete and accurate and the owner or operator has submitted a statement from a registered professional engineer to the Office of Environmental Services, Water and Waste Permits Division, so stating;

ii. - iv. …

B. Financial Responsibility for Corrective Action for Type II Landfills

1. A permit holder of a Type II landfill required to undertake a corrective action program under LAC 33:VII.709.E must provide to the Office of Environmental Services, Water and Waste Permits Division, a detailed written estimate, in current dollars, of the cost of hiring a third party to perform the corrective action in accordance with the program required under LAC 33:VII.709.E. The corrective action cost estimate must account for the total costs of corrective action activities as described in the corrective action plan for the entire corrective action period.

a. The permit holder must provide an annual adjustment of the estimate for inflation to the Office of Environmental Services, Water and Waste Permits Division, until the corrective action program is completed in accordance with LAC 33:VII.709.E.

b. The permit holder must provide an increased corrective action cost estimate to the Office of Environmental Services, Water and Waste Permits Division, and the amount of financial assurance provided under Paragraph B.2 of this Section if changes in the corrective action program or landfill conditions increase the maximum costs of corrective action.

c. Subject to approval of the administrative authority, the permit holder may provide a reduced corrective action cost estimate to the Office of Environmental Services, Water and Waste Permits Division, and the amount of financial assurance provided under Paragraph B.2 of this Section if the cost estimate exceeds the maximum remaining costs of corrective action. The permit holder must provide the Office of Environmental Services, Water and Waste Permits Division, justification for the reduction of the corrective action cost estimate and the revised amount of financial assurance.

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 LR 19:1143 (September 1993), LR 19:1316 (October 1993), amended by the Office of Waste Services, Solid Waste Division, LR 23:954 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2529 (November 2000), repromulgated LR 27:39 (January 2001), amended by the Office of Environmental Assessment, LR 30:2026 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2497 (October 2005).

Chapter 9. Enforcement

§909. Closing Unauthorized and Promiscuous Dumps

Unauthorized and promiscuous dumps shall be closed through the following procedure.

A. - C.2.e. …

f. record in the parish mortgage and conveyance records a document describing the specific location of the facility and specifying that the property was used for the disposal of solid waste. The document shall identify the name of the person with knowledge of the contents of the facility, as well as providing the chemical levels remaining, if present. A true copy of the document, filed and certified by the parish clerk of court, shall be sent to the Office of Environmental Compliance, Enforcement Division; and

C.2.g. - E.2. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:1051 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 26:2536 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2501 (October 2005).

Chapter 11. Beneficial-Use Facilities

§1109. Standards Governing Beneficial-Use Facilities

A. - E. …

F. Facility Administrative Procedures

1. Recordkeeping and Reports

a. Reports

i. The permit holder shall submit annual reports to the Office of Management and Finance, Financial Services Division, indicating quantities and types of solid waste beneficially used, (expressed in wet-weight tons and dry-weight tons per year), during the reporting period. All calculations used to determine the amounts of solid waste received for processing or disposal during the annual reporting period shall be submitted to the administrative authority. A form for this purpose must be obtained from the Office of Management and Finance, Financial Services Division, or through the department's website.

F.1.a.ii. - G.3.d.ii. …

H. Facility Closure Requirements

1. All permit holders shall notify the Office of Environmental Services, Water and Waste Permits Division, in writing at least 90 days before closure or intention to close or abandon any individual units within a facility and shall provide the following information:

1.a. - 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 26:2536 (November 2000), repromulgated LR 27:40 (January 2001), LR 27:705 (May 2001), amended by the Office of Environmental Assessment, LR 30:2027 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2501 (October 2005).

Chapter 13. Statewide Beautification

§1303. Definitions

A. The following words, terms, and phrases, when used in conjunction with LAC 33:VII.Subpart 1, shall have the meanings ascribed to them in this Chapter, except where the context clearly indicates a different meaning.

* * *

*Section*Cthe Litter and Waste Reduction Section located within and acting through the Office of Environmental Services of the Department of Environmental Quality.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2522 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:2610 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2501 (October 2005).

§1305. Louisiana Litter Abatement Program

A. - B.2. …

3. All requests for awards shall be made in writing on a form provided by the department to the Litter and Waste Reduction Section of the Office of Environmental Services.

4. - 5. …

6. Awards shall be awarded based on a comparative basis as determined by the Litter and Waste Reduction Section of the Office of Environmental Services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2524 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:2610 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2501 (October 2005).

Chapter 30. Appendices

§3001. Appendix A

Example of a Public Notice to be Placed in the Local Newspaper for Intention to Submit a Permit Application to the Office of Environmental Services, Water and Waste Permits Division, for Existing/Proposed Solid Waste Facilities

Public Notice
of
Intent To Submit Permit Application
(Name of Applicant/Facility)
Facility (location), Parish (location), Louisiana

Notice is hereby given that (name of applicant) does intend to submit to the Department of Environmental Quality, Office of Environmental Services, Water and Waste Permits Division, an application for a permit to operate a (type of solid waste facility) in (parish name), Range__, Township__, Section__, which is approximately (identify the physical location of the site by direction and distance from the nearest town).

Comments concerning the facility may be filed with the secretary of the Louisiana Department of Environmental Quality at the following address:

Louisiana Department of Environmental Quality
Office of Environmental Services
Water and Waste Permits Division
Post Office Box 4313
Baton Rouge, Louisiana 70821-4313

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2536 (November 2000), amended by the Office of Environmental Assessment, LR 30:2027 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2502 (October 2005).

Subpart 2. Recycling

Chapter 103. Recycling and Waste Reduction Rules

§10307. Development of Local Plan

A. - A.2.a. …

b. an annual progress report must be submitted to the Office of Environmental Services, Environmental Assistance Division, no later than December 31 of each year after submittal and approval.

A.3. - C.2. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:35 (January 1992) repromulgated LR 18:164 (February 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2537 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2502 (October 2005).

Chapter 105. Waste Tires

§10513. Permit Process for Existing Facilities Classified for Upgrade and for Proposed Facilities

A. Applicant Public Notice

1. No sooner than 45 days prior to the submittal of a standard permit application to the Office of Environmental Services, Water and Waste Permits Division, the prospective applicant shall publish a notice of intent to submit an application for a waste tire standard permit. This notice shall be published one time as a single classified advertisement measuring 3 columns by 5 inches, in the legal or public notices section of the official journal of this state and a major local newspaper of general circulation. If the affected area is Baton Rouge, a single classified advertisement measuring 3 columns by 5 inches, in the legal or public notices section of the official journal of the state will be the only public notice required.

2. - 3. …

B. Submittal of Permit Applications

1. Any applicant for a standard permit for an existing or proposed facility shall complete a waste tire standard permit application, and submit four copies to the Office of Environmental Services, Water and Waste Permits Division. Each individual copy of the application shall be in standard three-ring-bound documents measuring 8 1/2 by 11 inches. All appendices, references, exhibits, tables, etc., shall be marked with appropriate tabs.

B.2. - H. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:39 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2775 (December 2000), LR 27:829 (June 2001), amended by the Office of Environmental Assessment, LR 30:2033 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2502 (October 2005).

§10515. Agreements with Waste Tire Processors

Standard permitted waste tire processors may apply to the Office of Management and Finance, Financial Services Division, for subsidized funding to assist them with waste tire processing and marketing costs. This application form is available from the Office of Management and Finance, Financial Services Division.

A. - F. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:39 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2776 (December 2000), LR 27:830 (June 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2502 (October 2005).

§10517. Standard Waste Tire Permit Application

Each applicant requesting a standard permit in accordance with these regulations shall complete the permit application, including, but not limited to, the information included in this

Section and submit it to the Office of Environmental Services, Water and Waste Permits Division.

A. - C.6. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:39 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2776 (December 2000), LR 27:830 (June 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2502 (October 2005).

§10519. Standards and Responsibilities of Generators of Waste Tires

A. Within 30 days of commencement of business operations, generators of waste tires shall notify the Office of Environmental Services, Water and Waste Permits Division, of their existence and obtain a generator identification number prior to initiating a waste tire manifest. Notification shall be on a form provided by the Office of Environmental Services, Water and Waste Permits Division.

B. - P. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:40 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2777 (December 2000), LR 27:830 (June 2001), LR 27:2227 (December 2001), LR 28:1953 (September 2002), LR 29:1818 (September 2003), LR 29:2780 (December 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:0000 (October 2005).1323 (June 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2503 (October 2005).

§10523. Standards and Responsibilities of Waste Tire Transporters

A. - F. …

G. All persons subject to this Section shall notify the Office of Management and Finance, Financial Services Division, in writing within 10 days when any information on the authorization certificate form changes, or if they close their business and cease transporting waste tires.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:41 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2778 (December 2000), LR 27:831 (June 2001), repromulgated LR 27:1885 (November 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2503 (October 2005).

§10525. Standards and Responsibilities of Waste Tire Processors

A. - A.2.g. …

B. On a form obtained from the Office of Management and Finance, Financial Services Division, all processors shall submit to the Office of Management and Finance, Financial Services Division, a monthly report which shall include a certified record of pounds of tires processed during the month, along with all completed manifests for the month and the log recording all unmanifested waste tires deposited at the facility. The monthly report shall also include a certified record of the pounds of waste tire material that have been marketed and delivered as a product or raw material for beneficial reuse. An alternative method of reporting sale of waste tire material shall be developed and approved for each processor that uses a process other than shredding. The alternative method shall be approved by the administrative authority.

C. - D.13. …

a. the waste tire facility operator shall submit to the Office of Management and Finance, Financial Services Division, an estimate of the maximum total amount by weight of waste tire material that will be stored at the processing facility at any one time;

b. the waste tire facility operator shall also submit to the Office of Management and Finance, Financial Services Division, two independent, third-party estimates of the total cost of cleaning up and closing the facility, including the cost of loading the waste tire material, transportation to a permitted disposal site, and the disposal cost; and

D.13.c. - E.6. …

7. Mobile processors are responsible for notifying the Office of Environmental Services, Water and Waste Permits Division, in writing within 10 days when any information on the notification changes or if they cease processing waste tires with a mobile unit.

F. Governmental agencies may operate tire splitting equipment for the purposes of volume reduction prior to disposal without a permit to process waste tires, provided they meet the requirements outlined in LAC 33:VII.10517.C and request authorization from the Office of Management and Finance, Financial Services Division, before initiating any processing.

G. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:41 (January 1992), amended LR 20:1001 (September 1994), LR 22:1213 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2779 (December 2000), LR 27:831 (June 2001), LR 27:2228 (December 2001), LR 28:1953 (September 2002), LR 29:2780 (December 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2503 (October 2005).

§10531. Standards and Responsibilities of Qualified Recyclers

A. Within 30 days of promulgation of these rules and regulations, recyclers shall notify the Office of Environmental Services, Water and Waste Permits Division, of their existence and obtain an identification number. Notification shall be on a form provided by the Office of Environmental Services, Water and Waste Permits Division, including, but not limited to:

A1. - C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2780 (December 2000), LR 27:831 (June 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2503 (October 2005).

§10533. Manifest System

A. - B.2. …

3. the designated processing facility operator completes Section 3 of the manifest and retains a copy for his files. The designated processing facility operator shall submit the original manifest to the Office of Management and Finance, Financial Services Division, with the monthly processor report. The designated processing facility shall send all remaining copies to the generator no later than seven days after delivery;

4. …

5. a generator must submit to the Office of Management and Finance, Financial Services Division, written notification, if he has not received a copy of the manifest with the handwritten signature of the designated destination facility operator within 45 days of the date the shipment was accepted by the transporter. The notification shall include:

B.5.a. - D. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2780 (December 2000), LR 27:831 (June 2001), LR 27:2228 (December 2001), LR 29:2780 (December 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2504 (October 2005).

§10535. Fees and Fund Disbursement

A. Permit and Application Fees. Each applicant shall submit to the Office of Environmental Services, Water and Waste Permits Division, a non-refundable application fee in the amount specified, according to the categories listed below. The appropriate fee must accompany the permit application or authorization application form.

A.1. - C. …

1. The entire waste tire fee shall be forwarded to the Office of Management and Finance, Financial Services Division, by the tire dealer and shall be deposited in the Waste Tire Management Fund.

C.2. - D.10. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended LR 22:1213 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2781 (December 2000), LR 27:832 (June 2001), LR 27:2228 (December 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:0000 (October 2005).1324 (June 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2504 (October 2005).

§10536. Remediation of Unauthorized Tire Piles

A. …

B. In order to apply for and receive funding for unauthorized waste tire site remediation, local governments must provide the Office of Management and Finance, Financial Services Division, with unauthorized waste tire site information. This information includes, but is not limited to, accurate site location, number of tires on site, visual report on site with photographs and proximity to residences, schools, hospitals and/or nursing homes, and major highways. Such information shall be submitted using forms available from the Office of Management and Finance, Financial Services Division.

C. - G. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, amended LR 20:1001 (September 1994), LR 22:1213 (December 1996), LR 23:722 (June 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2782 (December 2000), LR 27:832 (June 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2504 (October 2005).

Part IX. Water Quality

Subpart 1. Water Pollution Control

Chapter 3. Permits

Subchapter A. General Requirements

§301. Scope

A. - E.7. …

F. Any unpermitted facility or activity that exists or is under construction on the effective date of these regulations and falls under the jurisdiction of Subsection B of this Section shall submit a completed application to the Office of Environmental Services, Water and Waste Permits Division, within 180 days of the effective date. Upon receipt of the application by the department within the prescribed 180 days, the facility shall be deemed in compliance with Subsection B of this Section except where the administrative authority has initiated action against the facility following an investigation or complaint. All facilities or activities that meet the requirements outlined in Paragraph J.4 or K.4 of this Section shall be exempt from the requirements of this Subsection.

G. - J.3.b.ii. …

4. A permit application shall not be required from a concentrated animal feeding operation until the department has conducted an on-site inspection of the operation and determined that the operation should and could be regulated under the permit program. However, all concentrated animal feeding operations that meet the criteria in LAC 33:IX.321.Appendix B shall so notify the Office of Environmental Services, Water and Waste Permits Division, within 180 days of the effective date of these regulations.

K. - K.3.a.iv. …

4. A permit application shall not be required from a concentrated aquatic animal production facility until the department has conducted an on-site inspection of the facility and has determined that the facility should and could be regulated under the permit program. However, all concentrated aquatic animal production facilities that meet the criteria in LAC 33:IX.321.Appendix C shall so notify the Office of Environmental Services, Water and Waste Permits Division, within 180 days of the effective date of these regulations.

L. - N. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985), amended by the Office of the Secretary, LR 22:344 (May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2273 (October 2000), LR 26:2538 (November 2000), amended by the

Office of the Secretary, Legal Affairs Division, LR 31:2504 (October 2005).

§303. Permit Application Information

A. - D. …

E. All applicants for a LWDPS permit shall provide the following information to the Office of Environmental Services, Water and Waste Permits Division, using the application form provided by the department, unless the department determines that such information is not required for applicant's facility or activity:

E.1. - G.2.c. …

3. Exception. In cases where the application is withdrawn by the applicant, a written notification must be provided to the Office of Environmental Services, Water and Waste Permits Division, stating that no discharge or other activity that would require a permit under these regulations is currently taking place. Provided that the application was not made in response to previous enforcement action, the applicant is then exempt from enforcement action for causes listed under Paragraph G.2 of this Section.

H. - H.2.b. …

c. the written authorization is submitted to the Office of Environmental Services, Water and Waste Permits Division.

3. If an authorization under this Subsection is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Paragraph H.2 of this Section shall be submitted to the Office of Environmental Services, Water and Waste Permits Division, prior to or together with any reports, information, or applications to be signed by an authorized representative.

4. Any person signing any document under this Subsection shall make the following certification.

> "I certify under penalty of law that this document and all attachments were prepared under the direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, 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."

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2539 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2505 (October 2005).

§307. Modification, Revocation and Reissuance

A. Any permittee shall report to the Office of Environmental Services, Water and Waste Permits Division, any facility changes that result in increases in the quantity of pollutants discharged or decreases in the quality of the discharges. The permittee shall also report any facility changes that result in decreases in the quantity of pollutants discharged or increases in the quality of discharges of pollutants where such change is expected to last in excess of 180 days. Such report shall be by submission of a modified permit application or, if the discharge does not violate the effluent limitations specified in the permit, by submission of notice to the Office of Environmental Services, Water and Waste Permits Division, of the nature of such facility changes. The permittee shall not commence any facility expansion, production increases, or process modifications that result in new or increased discharges of pollutants without receiving a modified LWDPS permit or written authorization from the Office of Environmental Services, Water and Waste Permits Division. The provisions of this Subsection shall not apply to facility changes that were considered during the permitting process.

B. When the Office of Environmental Services, Water and Waste Permits Division, receives any new information or receives a request for modification or revocation, such permit may, after an opportunity for hearing, be modified, or alternatively revoked and reissued, in whole or in part, for cause, including but not limited to:

B.1. - D.3. …

4. allow for a change in ownership or operational control of a facility where the Office of Environmental Services, Water and Waste Permits Division, determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittees has been submitted to the department (see LAC 33:IX.307.B.8 and 311.D);

D.5. - F. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2540 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2505 (October 2005).

§309. Renewal and Termination

A. At least 180 days prior to the expiration date of a LWDPS permit issued pursuant to state law and this regulation, a permittee who wishes to continue to operate under such permit shall submit an application for renewal to the Office of Environmental Services, Water and Waste Permits Division.

B. - H. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985), amended by the Office of the Secretary, LR 22:344 (May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2541 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2505 (October 2005).

§311. Standard Permit Conditions

In addition to the following standard conditions required in all permits, the department shall establish additional requirements as deemed necessary on a case-by-case basis, to provide for and ensure compliance with all applicable requirements of the act, these regulations, and constitutional and statutory mandates.

A. - I.4. …

J. Monitoring, Recordkeeping, and Reporting

1. All sampling and analyses shall be performed in accordance with the analytical test procedures approved by the Office of Environmental Services, Water and Waste

Permits Division. Where no approved sampling or test procedure is available, the permittee must:

1.a. - 13. …

14. The permittee shall report any noncompliance as required by R.S. 30:2025(J), R.S. 30:2076(D), or departmental regulations promulgated under these statutes. In addition, all maximum limitation excursions shall be reported in writing to the Office of Environmental Compliance, Emergency and Radiological Services Division, within five days of the time the permittee becomes aware of the excursions.

J.15. - K.1.c. …

i. if the permittee knows in advance of the need for a bypass, it shall submit to the Office of Environmental Services, Water and Waste Permits Division, prior written notice, at least 10 days before the date of the bypass if possible;

ii. if the permittee does not know in advance of the need for a bypass, notice shall be submitted to the Office of Environmental Services, Water and Waste Permits Division, within 24 hours after the initiation of the bypass unless an earlier notice is required in R.S. 30:2025(J).

2. - 3. …

4. The permittee may allow any bypass to occur that does not cause effluent limitations to be exceeded, but only if the bypass is required for essential maintenance to ensure efficient operation. Any bypass that meets the requirements of this Paragraph and is expected to or does continue for longer than seven days shall be reported in writing to the Office of Environmental Services, Water and Waste Permits Division, within 10 working days of initiation of the bypass. These bypasses are not subject to the provisions of Paragraphs K.1 and 2 of this Section.

L. - L.2. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2541 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2505 (October 2005).

§315. Public Information

A. - B. …

C. The department shall send the public notice to the applicant who shall be responsible for publication of the notice once in the official state journal and once in any other local newspapers specified by the department. Upon publication, the applicant shall send the Office of Environmental Services, Water and Waste Permits Division, a copy of the certificate of publication. The costs of publication shall be borne by the applicant.

D. - F.4. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985), amended by the Office of the Secretary, LR 22:344 (May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2542 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2506 (October 2005).

Chapter 7. Effluent Standards

§708. Exploration for and Production of Oil and Natural Gas

A. - C.1.b.iii. …

iv. In the event of an unauthorized discharge of oil, produced water, or any other product or waste material, a remedial response must be immediately initiated and the Office of Environmental Compliance, Surveillance Division, shall be notified in accordance with LAC 33:I.3901 et seq. The remedial response shall include immediate removal of discharged materials and, to the extent practicable, decontamination of any water, soil, sediment, or vegetation adversely impacted by the unauthorized discharge. If immediate cleanup is not considered to be an appropriate remedial measure, the responsible party shall notify the Office of Environmental Compliance, Surveillance Division, of the alternative remedial plan and shall promptly implement said plan upon approval by the department. Submission of an alternate plan shall in no way relieve the responsible party of its duty to contain and mitigate the effects of the discharge.

1.b.v. - 3.d. …

e. The discharge of drill cuttings or bulk drilling fluids (if allowed) must not occur within 1,300 feet (via water) of an active oyster lease, live natural oyster or other molluscan reef, designated oyster seed bed, or sea grass bed. No discharge shall be made in such a manner as to allow deposition of drill cuttings or drilling fluids in or upon any active oyster lease, live natural reef, or seed bed. If the discharge is to take place within one mile of an area containing oyster leases, a lease map must be forwarded to the Office of Environmental Services, Water and Waste Permits Division, showing the location of the discharge and surrounding leases. If the applicant considers any oyster lease, live natural oyster or other molluscan reef, or designated seed bed within 1,300 feet of a discharge of drilling fluids or drill cuttings to be inactive, written documentation and evidence must be submitted to the Office of Environmental Services, Water and Waste Permits Division, for a determination to be made as to the acceptability of such a discharge.

3.f. - 5.b.ii. …

c. Each discharge will require specific prior approval from a representative of the Office of Environmental Services, Water and Waste Permits Division. An analysis of the treated water shall be submitted to and approved by a representative of the Office of Environmental Services, Water and Waste Permits Division, prior to discharge.

i. - iii. …

d. Dilution shall not be used to comply with any of the discharge limitations unless specific written authorization from the Office of Environmental Services, Water and Waste Permits Division, has been obtained. The only parameter for which dilution will be considered is chloride. Formal written requests for approval to allow dilution of chloride levels should be addressed to the Office of Environmental Services, Water and Waste Permits Division. Consideration of written requests to allow dilution of chloride levels in drilling site reserve pits, ring levee

borrow ditches, shale barges, drilling fluid dewatering systems, and abandoned or inactive oil field production pits will be made on a case-by-case basis and only if the following conditions can be met.

i. - iv. …

v. The Office of Environmental Services, Water and Waste Permits Division, representative concludes that no adverse environmental effects will result from the discharge of pretreated and diluted wastewater.

e. An on-site inspection by the Office of Environmental Services, Water and Waste Permits Division, personnel may be required prior to discharge approval.

f. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 15:261 (April 1989), amended LR 17:263 (March 1991), LR 23:860 (July 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2544 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2506 (October 2005).

Chapter 9. Spill Prevention and Control

§905. Requirements for Preparation and Implementation of Plans

A. Operators of facilities in operation or under construction on or before the effective date of these regulations that meet the criteria outlined in LAC 33:IX.903 shall prepare a plan within 180 days of the effective date of these regulations. The plan shall be fully implemented as soon as possible after preparation, but not later than one year after it was prepared. The Office of Environmental Services, Water and Waste Permits Division, may, upon written request, grant additional implementation time to existing facilities in those cases where substantial upgrading or modification may be required in order to comply with this Chapter.

B. - F. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2545 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2507 (October 2005).

Chapter 11. Surface Water Quality Standards

§1117. References

A. - A.1. …

2. Louisiana Department of Environmental Quality. (continuous). Fixed Station Long-Term Ambient Surface Water Quality Network. Baton Rouge: Office of Environmental Compliance, Surveillance Division.

3. - 13. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:745 (October 1984), amended LR 15:738 (September 1989), LR 17:264 (March 1991), LR 20:883 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2403 (December 1999), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2507 (October 2005).

§1121. Regulation of Toxic Substances Based on the General Criteria

A. - A.2. …

B. Effluent Characterization/Toxicity Testing and/or Instream Assessment

1. When determining the need for limits based on water quality, the Office of Environmental Services, Water and Waste Permits Division, may identify data needs and request that the permittee submit additional data along with the application. Permits may be placed into three categories:

1.a. - 3.b.iii.(c). …

4. For waterbodies whose designated use is as a drinking water supply, the department will calculate the in-stream concentration for all pollutants discharged for which EPA has promulgated a maximum contaminant level (MCL). The permittee will be required to submit to the Office of Environmental Services, Water and Waste Permits Division, sufficient effluent characterization data to make these calculations. Where dilution calculations indicate that in-stream concentrations may exceed the MCL requirements at appropriate flow conditions, the permittee may be required to conduct in-stream chemical monitoring or monitoring at the water supply.

5. To protect human health by eliminating chronic exposure to potentially toxic amounts of pollutants from aquatic species consumed by humans, the department will calculate the in-stream concentrations of all applicable pollutants for which EPA has published human health criteria in the Quality Criteria for Water, 1986, EPA 440/5-86-001, or subsequent revisions. The permittee will be required to submit to the Office of Environmental Services, Water and Waste Permits Division, sufficient effluent characterization data to make these calculations. For operational considerations, if dilution calculations show that after mixing, a suspected carcinogen would be present in the receiving waterbody at a concentration associated with a 10^{-6} risk level, in-stream chemical monitoring may be required of the appropriate dischargers. The department will list the waterbody as a priority waterbody and develop a wasteload allocation or make other consideration for it.

C. - E.2. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 15:738 (September 1989), amended LR 17:264 (March 1991), LR 20:883 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2404 (December 1999), LR 26:2548 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2507 (October 2005).

Chapter 15. Water Quality Certification Procedures

§1507. Procedures for Issuance of Water Quality Certification

A. - A.2.a.Table. …

b. Payment shall accompany the application for certification. The department shall consider the application incomplete and initiation of the application review process will not begin until payment of the processing fee is received. Payment shall be by check or money order to Department of Environmental Quality, Office of

Environmental Services, Water and Waste Permits Division, and shall be nonrefundable.

3. …

4. Approved Land Management Plan Requirement. Applicants whose applications involve the clearing of land for agricultural purposes shall submit to the Office of Environmental Services, Water and Waste Permits Division, an approved land management plan for the land to be cleared before the application will be deemed adequate.

5. - 8. …

B. Alternative Application Submittal. Any applicant may elect to submit to the Office of Environmental Services, Water and Waste Permits Division, a duplicate of the proposed federal permit application in lieu of a separate application for state certification. Such submittal must include a cover letter requesting state certification and indicating that the attached copy of a federal permit application is to serve as the application for state certification.

C. - H.2. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(A)(3).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:496 (July 1984), amended by the Office of the Secretary, LR 22:345 (May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2550 (November 2000), LR 29:690 (May 2003), LR 29:2052 (October 2003), amended by the Office of Environmental Assessment, LR 30:2027 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2507 (October 2005).

Chapter 21. Municipal Facilities Revolving Loan Fund

§2109. Priority System

A. …

B. Determination of Priority for Participation in the Program. Any municipality that has the authority under applicable law to undertake a wastewater facility project and desires to apply for a loan may submit a completed Pre-Application Form (RF-100) to the Office of Environmental Services, Water and Waste Permits Division. Such projects shall be included on the next fiscal year's state project priority list in accordance with the priority system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 13:742 (December 1987), repromulgated LR 14:862 (December 1988), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2550 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2508 (October 2005).

§2111. Application for Loan

A. - E.4. …

F. Plans and Specifications. The applicant shall submit plans and specifications to the Office of Environmental Services, Water and Waste Permits Division, for review to ensure the proposed project meets minimum technical and administrative requirements of federal and state law, is biddable and constructable and will satisfy discharge requirements in accordance with the project's National Pollution Discharge Elimination System (NPDES) and/or State Pollutant Discharge Elimination System permit.

G. - H. …

I. Financial and Management Capability. The applicant is required to submit to the Office of Environmental Services, Water and Waste Permits Division, sufficient information to demonstrate its legal, institutional, managerial, and financial capability to ensure the adequate building, operation, maintenance of the facility, and debt repayment of the loan.

J. - M.6. …

N. Sludge Management Plan. The applicant shall submit a plan to the Office of Environmental Services, Water and Waste Permits Division, that complies with the Department of Environmental Quality rules and regulations.

O. - P. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 13:742 (December 1987), repromulgated LR 14:862 (December 1988), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2550 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2508 (October 2005).

§2115. Construction of Wastewater Facility Project

A. - B.2.c. …

d. submit to the Office of Environmental Services, Water and Waste Permits Division, all change orders for review and approval.

C. Bid Proposals. The applicant shall submit to the Office of Environmental Services, Water and Waste Permits Division, for review a complete statement of work to be performed, the terms and conditions of the proposed contract to be awarded, a clear explanation of the methods of bidding and of evaluating bid prices and the limits of work for each item on the proposal form.

D. - E. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 13:742 (December 1987), repromulgated LR 14:862 (December 1988), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2551 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2508 (October 2005).

§2119. Miscellaneous

A. Annual Audit. The Office of Environmental Services, Water and Waste Permits Division, shall conduct, or have conducted, an annual audit of the fiscal operation of the revolving loan fund for submission to the governor and the legislature.

B. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 13:742 (December 1987), repromulgated LR 14:862 (December 1988), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2551 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2508 (October 2005).

§2123. Appendix 2C Construction Grants Priority System

A. - D.2.i. …

3. It is the responsibility of each authorized project representative to maintain current and accurate information

for his/her project, and to submit any revised or updated project information to the Office of Environmental Services, Water and Waste Permits Division, each year for use in preparing the project priority list. Only project information received by April 1 will be considered for inclusion on the next fiscal year's project priority list.

4. - 19. …

20. Those projects that have already received federal assistance for Step 1 or Step 2 work must complete and submit the required grant documents to the Office of Environmental Services, Water and Waste Permits Division, within the time period allotted. Failure to submit the required documents or a request for a time extension by the scheduled project completion date may result in the removal of the project from the fundable portion of the project priority list.

D.21. - F. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 17:342 (December 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2551 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2508 (October 2005).

§2125. Appendix 3CState Environmental Review Process

A. General. As required by the provisions of Section 602(b)(6) of the 1987 Amendments to the Clean Water Act, the department shall conduct an interdisciplinary environmental review consistent with the National Environmental Policy Act of the project proposed for funding through the municipal facilities revolving loan fund. This review will ensure that the project will comply with the applicable local, state, and federal laws and department rules relating to the protection and enhancement of the environment. Based upon the staff's review, the secretary, or his duly authorized representative, will make formal determinations regarding the potential social and environmental impacts of the proposed project. As necessary, the determination will include mitigative provisions as a condition of financial assistance for building and no financial assistance will be provided until a final environmental determination has been made. Nothing in these rules shall prohibit any public, private or governmental party from seeking administrative or legal relief from the determinations of the department. Potential applicants to the municipal facilities revolving loan fund should obtain guidance from the staff regarding the scope of the environmental review to be conducted by the department and the environmental information that the applicant will be required to submit to the Office of Environmental Services, Water and Waste Permits Division, in support of the proposed project.

A.1. - C.5. …

GUIDELINES FOR LOUISIANA REVOLVING LOANS FUND
ENVIRONMENTAL REVIEW PROCESS

* * *

[See Prior Text in Document]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 14:862 (December 1988), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2551 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2509 (October 2005).

Subpart 2. The Louisiana Pollutant Discharge Elimination System (LPDES) Program

Chapter 25. Permit Application and Special LPDES Program Requirements

§2501. Application for a Permit

A. …

1. Any person who discharges or proposes to discharge pollutants or who owns or operates a sludge-only facility whose sewage sludge use or disposal practice is regulated by 40 CFR Part 503, and who does not have an effective permit, except persons covered by general permits under LAC 33:IX.2515, or discharges excluded under LAC 33:IX.2315, or a user of a privately owned treatment works unless the state administrative authority requires otherwise under LAC 33:IX.2707.M, must submit a complete application to the Office of Environmental Services, Water and Waste Permits Division, in accordance with this Section and LAC 33:IX.Chapters 31-35. All concentrated animal feeding operations have a duty to seek coverage under an LPDES permit as described in LAC 33:IX.2505.D.

2. Application Forms

a. All applicants for LPDES permits must submit applications on either state- or EPA-approved permit application forms. More than one application form may be required from a facility depending on the number and types of discharges or outfalls found there. Application forms may be obtained by contacting the Office of Environmental Services, Water and Waste Permits Division, or may be obtained electronically through the department's website.

A.2.b. - C.1.b. …

c. Any other TWTDS not addressed under Subparagraph C.1.a or b of this Section must submit the information listed in Clauses C.1.c.i-v of this Section, to the Office of Environmental Services, Water and Waste Permits Division, within one year after publication of a standard applicable to its sewage sludge use or disposal practice(s), using Form 2S or another form provided by the department. The Office of Environmental Services, Water and Waste Permits Division, will determine when such TWTDS must submit a full permit application. The following information must be submitted:

c.i. - d. …

e. Any owner or operator of a TWTDS that commences operations after promulgation of an applicable standard for sewage sludge use or disposal shall submit an application to the Office of Environmental Services, Water and Waste Permits Division, at least 180 days prior to the date proposed for commencing operations.

D. - E.2. …

F. Information Requirements. All applicants for LPDES permits, other than permits for POTWs and other TWTDS, must provide the following information to the Office of Environmental Services, Water and Waste Permits Division, using the application form provided by the state administrative authority (additional information required of

applicants is set forth in Subsections G-K of this Section and LAC 33:I.1701):

1. - 9. …

G. Application Requirements for Existing Manufacturing, Commercial, Mining, and Silvicultural Dischargers. Existing manufacturing, commercial, mining, and silvicultural dischargers applying for LPDES permits, except for those facilities subject to the requirements of Subsection H of this Section, shall provide the following information to the Office of Environmental Services, Water and Waste Permits Division, using application forms provided by the state administrative authority:

1. - 13. …

H. Application Requirements for Manufacturing, Commercial, Mining and Silvicultural Facilities That Discharge Only Nonprocess Wastewater. Except for stormwater discharges, all manufacturing, commercial, mining and silvicultural dischargers applying for LPDES permits that discharge only nonprocess wastewater not regulated by an effluent limitations guideline or new source performance standard shall provide the following information to the Office of Environmental Services, Water and Waste Permits Division, using application forms provided by the state administrative authority.

H.1. - I.2.e. …

J. Application Requirements for New and Existing POTWs. Unless otherwise indicated, all owners/operators of POTWs and other dischargers designated by the state administrative authority must provide, at a minimum, the information in this Subsection to the Office of Environmental Services, Water and Waste Permits Division. Permit applicants must submit all information available at the time of permit application. The information may be provided by referencing information previously submitted to the state administrative authority. The state administrative authority may waive any requirement of this Subsection if he or she has access to substantially identical information. The state administrative authority may also waive any requirement of this Subsection that is not of material concern for a specific permit, if approved by the regional administrator. The waiver request to the regional administrator must include the state's justification for the waiver. A regional administrator's disapproval of a state's proposed waiver does not constitute final agency action, but does provide notice to the state and permit applicant(s) that EPA may object to any state-issued permit issued in the absence of the required information.

1. - 3.c.ii. …

4. Effluent Monitoring for Specific Parameters

a. As provided in Subparagraphs J.4.b-j of this Section, all applicants must submit to the Office of Environmental Services, Water and Waste Permits Division, effluent monitoring information for samples taken from each outfall through which effluent is discharged to waters of the state. The state administrative authority may allow applicants to submit sampling data for only one outfall on a case-by-case basis, where the applicant has two or more outfalls with substantially identical effluent. The state administrative authority may also allow applicants to composite samples from one or more outfalls that discharge into the same mixing zone.

4.b. - 5.a. …

b. As provided in Subparagraphs J.5.c-i of this Section, applicants for the following facilities must submit to the Office of Environmental Services, Water and Waste Permits Division, the results of valid whole effluent toxicity tests for acute or chronic toxicity for samples taken from each outfall through which effluent is discharged to surface waters:

J.5.b.i. - R.5.b. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:723 (June 1997), amended by the Office of the Secretary, LR 25:661 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2552 (November 2000), LR 26:2756 (December 2000), LR 27:45 (January 2001), LR 28:465 (March 2002), LR 28:1766 (August 2002), LR 29:1462 (August 2003), repromulgated LR 30:230 (February 2004), amended by the Office of Environmental Assessment, LR 30:2028 (September 2004), LR 31:425 (February 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2509 (October 2005).

§2511. Storm Water Discharges

A. - A.9.b. …

c. Operators of storm water discharges designated in accordance with Clauses A.9.a.iii and iv of this Section shall apply to the Office of Environmental Services, Water and Waste Permits Division, for a permit within 180 days of receipt of notice, unless permission for a later date is granted by the department.

B. - C.1.e. …

2. Group Application for Discharges Associated with Industrial Activity. In lieu of individual applications or notice of intent to be covered by a general permit for storm water discharges associated with industrial activity, a group application may be filed by an entity representing a group of applicants (except facilities that have existing individual LPDES permits for storm water) that are part of the same subcategory (see 40 CFR Subchapter N, Part 405 to 471) or, where such grouping is inapplicable, are sufficiently similar as to be appropriate for general permit coverage under LAC 33:IX.2515. The Part 1 application shall be submitted to the Office of Environmental Services, Water and Waste Permits Division, for approval. Once a Part 1 application is approved, group applicants are to submit Part 2 of the group application to the Office of Environmental Services, Water and Waste Permits Division. A group application shall consist of:

a. - b. …

D. Application Requirements for Large and Medium Municipal Separate Storm Sewer Discharges. The operator of a discharge from a large or medium municipal separate storm sewer or a municipal separate storm sewer that is designated by the state administrative authority under Subparagraph A.1.e of this Section may submit a jurisdiction-wide or system-wide permit application to the Office of Environmental Services, Water and Waste Permits Division. Where more than one public entity owns or operates a municipal separate storm sewer within a geographic area (including adjacent or interconnected municipal separate storm sewer systems), such operators may be a co-applicant to the same application. Permit applications for discharges from large and medium

municipal storm sewers or municipal storm sewers designated under Subparagraph A.1.e of this Section shall include:

D.1. - G.4.d.Certification. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:957 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2273 (October 2000), LR 26:2552 (November 2000), repromulgated LR 27:40 (January 2001), amended LR 28:467 (March 2002), LR 29:701 (May 2003), repromulgated LR 30:230 (February 2004), amended by the Office of the Environmental Assessment, LR 31:1321 (June 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2510 (October 2005).

§2515. General Permits

A. - B.1. …

2. Authorization to Discharge, or Authorization to Engage in Sludge Use and Disposal Practices

a. Except as provided in Subparagraphs B.2.e and f of this Section, dischargers (or treatment works treating domestic sewage) seeking coverage under a general permit shall submit to the Office of Environmental Services, Water and Waste Permits Division, a written notice of intent to be covered by the general permit. A discharger (or treatment works treating domestic sewage) who fails to submit a notice of intent in accordance with the terms of the permit is not authorized to discharge, (or in the case of sludge disposal permit, to engage in a sludge use or disposal practice), under the terms of the general permit unless the general permit, in accordance with Subparagraph B.2.e of this Section, contains a provision that a notice of intent is not required or the state administrative authority notifies a discharger (or treatment works treating domestic sewage) that it is covered by a general permit in accordance with Subparagraph B.2.f of this Section. A complete and timely notice of intent (NOI), to be covered in accordance with general permit requirements, fulfills the requirements for permit applications for purposes of LAC 33:IX.2321, 2501, and 2511.

B.2.b. - C.3. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2276 (October 2000), LR 26:2553 (November 2000), LR 28:468 (March 2002), LR 29:1466 (August 2003), repromulgated LR 30:230 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2511 (October 2005).

§2521. If I am an operator of a regulated small MS4, how do I apply for an LPDES permit and when do I have to apply?

A. If you operate a regulated small MS4 under LAC 33:IX.2519, you must seek coverage under an LPDES permit issued by the Department of Environmental Quality, Office of Environmental Services, Water and Waste Permits Division.

B. …

1. If the Office of Environmental Services, Water and Waste Permits Division, has issued a general permit applicable to your discharge and you are seeking coverage under the general permit, you must submit a Notice of Intent (NOI) that includes the information on your best management practices and measurable goals required by LAC 33:IX.2523.D. You may file your own NOI or you and other municipalities or governmental entities may jointly submit a NOI. If you want to share responsibilities for meeting the minimum measures with other municipalities or governmental entities, you must submit a NOI that describes which minimum measures you will implement and identify the entities that will implement the other minimum measures within the area served by your MS4. The general permit will explain any other steps necessary to obtain permit authorization.

2.a. If you are seeking authorization to discharge under an individual permit and wish to implement a program under LAC 33:IX.2523, you must submit an application to the Department of Environmental Quality, Office of Environmental Services, Water and Waste Permits Division, that includes the information required under LAC 33:IX.2501.F and 2523.D, an estimate of square mileage served by your small MS4, and any additional information that the Water and Waste Permits Division requests. A storm sewer map that satisfies the requirement of LAC 33:IX.2523.B.3.a will satisfy the map requirement in LAC 33:IX.2501.F.7.

b. …

c. If approved by the Office of Environmental Services, Water and Waste Permits Division, you and another regulated entity may jointly apply under either Subparagraph B.2.a or b of this Section to be co-permittees under an individual permit.

B.3. - C.2. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:2278 (October 2000), repromulgated LR 30:230 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2511 (October 2005).

§2523. As an operator of a regulated small MS4, what will my LPDES MS4 storm water permit require?

A. - C. …

D.1.In your permit application (either a notice of intent for coverage under a general permit or an individual permit application) you must identify and submit to the Office of Environmental Services, Water and Waste Permits Division, the following information:

a. - c. …

2. If you obtain coverage under a general permit, you are not required to meet any measurable goal(s) identified in your notice of intent in order to demonstrate compliance with the minimum control measures in Paragraphs B.3-6 of this Section unless, prior to submitting your NOI, the Office of Environmental Services, Water and Waste Permits Division, has provided or issued a menu of BMPs that addresses each such minimum measure. Even if that office does not issue the menu of BMPs, however, you still must comply with other requirements of the general permit, including good faith implementation of BMPs designed to comply with the minimum measures.

D.3. - G.3.e. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:2278 (October 2000), repromulgated LR 30:230 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2511 (October 2005).

§2525. As an operator of a regulated small MS4, may I share the responsibility to implement the minimum control measures with other entities?

A. - A.3. …

B. In some cases the Office of Environmental Services, Water and Waste Permits Division, may recognize, either in your individual LPDES permit or in an LPDES general permit, that another governmental entity is responsible under an LPDES permit for implementing one or more of the minimum control measures for your small MS4 or that the department itself is responsible. Where the Office of Environmental Services, Water and Waste Permits Division, does so, you are not required to include such minimum control measure(s) in your storm water management program (e.g., if a state or tribe is subject to an LPDES permit that requires it to administer a program to control construction site runoff at the state or tribal level and that program satisfies all of the requirements of LAC 33:IX.2523.B.4, you could avoid responsibility for the construction measure, but would be responsible for the remaining minimum control measures). Your permit may be reopened and modified to include the requirement to implement a minimum control measure if the entity fails to implement it.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:2282 (October 2000), repromulgated LR 30:230 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2512 (October 2005).

§2529. Will the small MS4 storm water program regulations at LAC 33:IX.2519-2527 change in the future?

A. EPA will evaluate the small MS4 regulations at LAC 33:IX.2519-2527 after December 10, 2012, and recommend any necessary revisions. Required revisions will then be incorporated into the LPDES program by the Office of Environmental Services, Water and Waste Permits Division. (EPA intends to conduct an enhanced research effort and compile a comprehensive evaluation of the NPDES MS4 storm water program. EPA will re-evaluate the regulations based on data from the NPDES MS4 storm water program, from research on receiving water impacts from storm water, and the effectiveness of BMPs, as well as other relevant information sources.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:2282 (October 2000), repromulgated LR 30:230 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:0000 (October 2005).

Chapter 27. LPDES Permit Conditions

§2701. Conditions Applicable to All Permits

The following conditions apply to all LPDES permits. Additional conditions applicable to LPDES permits are in LAC 33:IX.2703. All conditions applicable to LPDES permits shall be incorporated into the permits either expressly or by reference. If incorporated by reference, a specific citation to these regulations (or the corresponding approved state regulations) must be given in the permit.

A. - M.2. …

3. Notice

a. Anticipated Bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice to the Office of Environmental Services, Water and Waste Permits Division, if possible at least 10 days before the date of the bypass.

M.3.b - N.4. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Water Pollution Control Division, LR 23:724 (June 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2553 (November 2000), LR 28:468 (March 2002), repromulgated LR 30:230 (February 2004), amended LR 30:1676 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2431 (October 2005), LR 31:2512 (October 2005).

§2703. Additional Conditions Applicable to Specified Categories of LPDES Permits

The following conditions, in addition to those set forth in LAC 33:IX.2701, apply to all LPDES permits within the categories specified below.

A. Existing Manufacturing, Commercial, Mining, and Silvicultural Dischargers. In addition to the reporting requirements under LAC 33:IX.2701.L, all existing manufacturing, commercial, mining, and silvicultural dischargers must notify the Office of Environmental Services, Water and Waste Permits Division, as soon as they know or have reason to believe:

A.1. - B.3.b. …

C. Municipal Separate Storm Sewer Systems. The operator of a large or medium municipal separate storm sewer system or a municipal separate storm sewer that has been designated by the state administrative authority under LAC 33:IX.2511.A.1.e must submit an annual report to the Office of Environmental Services, Water and Waste Permits Division, by the anniversary of the date of the issuance of the permit for such system. The report shall include:

C.1. - E.4.g. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2554 (November 2000), LR 29:1466 (August 2003), repromulgated LR 30:230 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2512 (October 2005).

§2709. Calculating LPDES Permit Conditions

A. - B.2.b.ii. …

(a). the permit shall require the permittee to notify the Office of Environmental Services, Water and Waste Permits Division, at least two business days prior to a month in which the permittee expects to operate at a level higher than the lowest production level identified in the permit. The notice shall specify the anticipated level and the period during which the permittee expects to operate at the alternate level. If the notice covers more than one month, the notice shall specify the reasons for the anticipated production level increase. New notice of discharge at alternate levels is required to cover a period or production level not covered by prior notice or, if during two consecutive months otherwise covered by a notice, the production level at the permitted facility does not in fact meet the higher level designated in the notice;

(b). the permittee shall comply with the limitations, standards, or prohibitions that correspond to the lowest level of production specified in the permit, unless the permittee has notified the Office of Environmental Services, Water and Waste Permits Division, under Subclause B.2.b.ii.(a) of this Section, in which case the permittee shall comply with the lower of the actual level of production during each month or the level specified in the notice;

(c). the permittee shall submit to the Office of Environmental Compliance, Enforcement Division, with the DMR the level of production that actually occurred during each month and the limitations, standards, or prohibitions applicable to that level of production.

C. - I. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2554 (November 2000), LR 28:470 (March 2002), repromulgated LR 30:230 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2513 (October 2005).

Chapter 31. General LPDES Program Requirements

§3115. Public Comments and Requests for Public Hearings

A. During the public comment period provided under LAC 33:IX.3113, any interested person may submit written comments to the Office of Environmental Services, Water and Waste Permits Division, on the draft permit and may request a public hearing, if no hearing has already been scheduled. A request for a public hearing shall be in writing and shall state the nature of the issues proposed to be raised in the hearing. All comments shall be considered in making the final decision and shall be answered as provided in LAC 33:IX.3125.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2554 (November 2000), repromulgated LR 30:231 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2513 (October 2005).

§3117. Public Hearings

A.1. - A.4. …

B. Any person may submit to the Office of Environmental Services, Water and Waste Permits Division, oral or written statements and data concerning the draft permit. Reasonable limits may be set upon the time allowed for oral statements, and the submission of statements in writing may be required. The public comment period under LAC 33:IX.3113 shall automatically be extended to the close of any public hearing under this Section. The hearing officer may also extend the comment period by so stating at the hearing.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2554 (November 2000), repromulgated LR 30:231 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2513 (October 2005).

Chapter 45. Criteria for Determining Alternative Effluent Limitations under Section 316(a) of the Act

§4505. Early Screening of Applications for Section 316(a) of the Act Variances

A. - A.4. …

B. After submitting the early screening information under Subsection A of this Section, the discharger shall consult with the state administrative authority at the earliest practicable time (but not later than 30 days after the application is filed) to discuss the discharger's early screening information. Within 60 days after the application is filed, the discharger shall submit for the Office of Environmental Services, Water and Waste Permits Division's approval, a detailed plan of study that the discharger will undertake to support its Section 316(a) of the Act demonstration. The discharger shall specify the nature and extent of the following type of information to be included in the plan of study: biological, hydrographical and meteorological data; physical monitoring data; engineering or diffusion models; laboratory studies; representative important species; and other relevant information. In selecting representative important species, special consideration shall be given to species mentioned in applicable water quality standards. After the discharger submits its detailed plan of study, the state administrative authority shall either approve the plan or specify any necessary revisions to the plan. The discharger shall provide any additional information or studies that the state administrative authority subsequently determines necessary to support the demonstration, including such studies or inspections as may be necessary to select representative important species. The discharger may provide any additional information or studies that the discharger feels are appropriate to support the demonstration.

C. - F.Note. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2555 (November 2000), repromulgated LR 30:231 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2513 (October 2005).

Chapter 57. Toxic Pollutant Effluent Standards and Prohibitions

§5709. Compliance

A.1. Within 60 days from the date of promulgation of any toxic pollutant effluent standard or prohibition each owner or operator with a discharge subject to that standard or prohibition must notify the Office of Environmental Services, Water and Waste Permits Division, of such discharge. Such notification shall include such information and follow such procedures as the state administrative authority may require.

A.2. - G. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2555 (November 2000), repromulgated LR 27:191 (February 2001), LR 30:232 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2514 (October 2005).

Chapter 61. General Pretreatment Regulations for Existing and New Sources of Pollution

§6113. Removal Credits

A. - E.7. …

F. Continuation and Withdrawal of Authorization

1. Effect of Authorization. Once a POTW has received authorization to grant removal credits for a particular pollutant regulated in a categorical pretreatment standard it may automatically extend that removal credit to the same pollutant when it is regulated in other categorical standards, unless granting the removal credit will cause the POTW to violate the sludge requirements identified in Subparagraph A.3.d of this Section or its LPDES permit limits and conditions as required by Subparagraph A.3.e of this Section. If a POTW elects at a later time to extend removal credits to a certain categorical pretreatment standard, industrial subcategory or one or more industrial users that initially were not granted removal credits, it must notify the Office of Environmental Services, Water and Waste Permits Division.

F.2. - H.2.c. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2555 (November 2000), repromulgated LR 30:232 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2514 (October 2005).

§6117. POTW Pretreatment Programs and/or Authorization to Revise Pretreatment Standards: Submission for Approval

A. Who Approves Program. A POTW requesting approval of a POTW pretreatment program shall develop a program description that includes the information set forth in Paragraphs B.1-4 of this Section. This description shall be submitted to the Office of Environmental Services, Water and Waste Permits Division, which will make a determination on the request for program approval in accordance with the procedures described in LAC 33:IX.6121.

B. - D. …

E. Approval Authority Action. Any POTW requesting POTW pretreatment program approval shall submit to the Office of Environmental Services, Water and Waste Permits Division, three copies of the submission described in Subsection B of this Section, and, if appropriate, Subsection D of this Section. Within 60 days after receiving the submission, the Office of Environmental Services, Water and Waste Permits Division, shall make a preliminary determination of whether the submission meets the requirements of Subsection B of this Section and, if appropriate, Subsection D of this Section. If the approval authority makes the preliminary determination that the submission meets these requirements, the approval authority shall:

E.1. - G.2. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2555 (November 2000), repromulgated LR 30:232 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2514 (October 2005).

§6121. Approval Procedures for POTW Pretreatment Programs and POTW Granting of Removal Credits

The following procedures shall be adopted in approving or denying requests for approval of POTW Pretreatment Programs and applications for removal credit authorization.

A. - B.1.a.ii. …

b. the public notice shall provide a period of not less than 30 days following the date of the public notice during which time interested persons may submit their written views on the submission to the Office of Environmental Services, Water and Waste Permits Division; and

B.1.c. - F. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 25:1093 (June 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2556 (November 2000), repromulgated LR 30:232 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2514 (October 2005).

§6123. Reporting Requirements for POTWs and Industrial Users

A. - G.1. …

2. If sampling performed by an industrial user indicates a violation, the user shall notify the Office of Environmental Services, Water and Waste Permits Division, within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the control authority within 30 days after becoming aware of the violation, except the industrial user is not required to resample if:

G.2.a. - K.2. …

3. Not later than 14 days following each date in the schedule and the final date for compliance, the POTW shall submit a progress report to the Office of Environmental Services, Water and Waste Permits Division, including, as a minimum, whether or not it complied with the increment of

progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps taken by the POTW to return to the schedule established. In no event shall more than nine months elapse between such progress reports to the Office of Environmental Services, Water and Waste Permits Division.

L. - P.4. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 24:2122 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2556 (November 2000), repromulgated LR 30:232 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2514 (October 2005).

§6125. Variances from Categorical Pretreatment Standards for Fundamentally Different Factors

A. - F. …

G. Application Deadline

1. Requests for a variance and supporting information must be submitted in writing to the Office of Environmental Services, Water and Waste Permits Division, or to the administrator (or his delegate), as appropriate.

G.2. - J.1.c. …

2. The public notice shall provide for a period not less than 30 days following the date of the public notice during which time interested persons may review the request and submit their written views on the request to the Office of Environmental Services, Water and Waste Permits Division.

J.3. - L.2.b.iv. …

c. notify the Office of Environmental Services, Water and Waste Permits Division, and the POTW of his or her determination; and

L.2.d. - M.2. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2556 (November 2000), repromulgated LR 30:232 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2515 (October 2005).

§6135. Modification of POTW Pretreatment Programs

A. - B.1.g. …

C. Approval Procedures for Substantial Modifications

1. The POTW shall submit to the Office of Environmental Services, Water and Waste Permits Division, a statement of the basis for the desired program modification, a modified program description (see LAC 33:IX.6117.B), or such other documents the approval authority determines to be necessary under the circumstances.

2. - 4. …

D. Approval Procedures for Nonsubstantial Modifications

1. The POTW shall notify the Office of Environmental Services, Water and Waste Permits Division, of any other (i.e., nonsubstantial) modifications to its pretreatment program at least 45 days prior to when they are to be implemented by the POTW, in a statement similar to that provided for in Paragraph C.1 of this Section.

D.2. - E. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 24:2122 (November 1998), LR 25:1093 (June 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2556 (November 2000), repromulgated LR 30:232 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2515 (October 2005).

Chapter 65. Additional Requirements Applicable to the LPDES Program

§6507. Enforcement Actions

A. - A.6. …

B. Exception. In cases where the application is withdrawn by the applicant, a written notification shall be provided to the Office of Environmental Services, Water and Waste Permits Division, stating that no discharge or other activity that would require a permit from the Office of Environmental Services, Water and Waste Permits Division, is currently taking place. Provided that the application was not made in response to previous enforcement action, the applicant is then exempt from enforcement action for causes listed under Paragraphs A.3 and 4 of this Section.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Water Pollution Control Division, LR 23:726 (June 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2557 (November 2000), repromulgated LR 30:233 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2515 (October 2005).

Chapter 67. Financial Security

§6703. Acceptable Form of Financial Security

A. - A.1. …

a. the bond must be submitted to the department at the following address: Louisiana Department of Environmental Quality, Office of Environmental Services, Water and Waste Permits Division, Box 4313, Baton Rouge, LA 70821-4313;

1.b. - 2. …

a. the letter of credit must be submitted to the department at the following address: Louisiana Department of Environmental Quality, Office of Environmental Services, Water and Waste Permits Division, Box 4313, Baton Rouge, LA 70821-4313;

b. - c. …

d. the wording of the letter of credit shall be identical to the wording that follows, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted:

IRREVOCABLE LETTER OF CREDIT

Secretary
Louisiana Department of Environmental Quality
Office of Environmental Services
Water and Waste Permits Division
Post Office Box 4313
Baton Rouge, Louisiana 70821-4313
Dear Sir:

* * *

[See Prior Text in Letter]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Sections 2074(B)(3) and (4) and 2075.2.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:46 (January 2001), repromulgated LR 30:233 (February 2004), amended by the Office of Environmental Assessment, LR 30:2028 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2515 (October 2005).

Chapter 69. Standards for the Use or Disposal of Sewage Sludge

§6901. General Provisions

A. - G.1.b.vi. …

2. Methods. The materials listed below are incorporated by reference in this Chapter. The materials are incorporated as they exist on the date of approval, and notice of any change in these materials will be published in the *Louisiana Register*. They are available for inspection at the Office of the Federal Register, 7th Floor, Suite 700, 800 North Capitol Street, NW, Washington, DC, and at the Office of Water Docket, Room L-102, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC. Copies may be obtained from the standard producer or publisher listed in the regulation. Information regarding other sources of these documents is available from the Department of Environmental Quality, Office of Environmental Services, Water and Waste Permits Division. Methods in the materials listed below shall be used to analyze samples of sewage sludge.

G.2.a. - H.Treatment Works. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(3)(e).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:781 (April 2002), repromulgated LR 30:233 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2516 (October 2005).

§6905. Siting and Operation Requirements for Commercial Blenders, Composters, Mixers, or Preparers of Sewage Sludge

A. - B.3.c.ii.(e). …

(f). analyses to be sent to the Office of Environmental Services, Water and Waste Permits Division, confirming that the requirements of Subparagraph B.3.b of this Section have been satisfied;

(g). …

(h). a statement from the permit holder indicating that, after the closure requirements have been met, the permit holder will file a request for a closure inspection with the Office of Environmental Services, Water and Waste Permits Division, before backfilling takes place. The administrative authority will determine whether the facility has been closed properly.

iii. - v. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(3)(e).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:794 (April 2002), repromulgated LR 30:233 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2516 (October 2005).

§6907. Financial Assurance Requirements for Commercial Blenders, Composters, Mixers, or Preparers of Sewage Sludge

A. …

1. Permit holders and applicants must maintain liability insurance, or its equivalent, for sudden and accidental occurrences in the amount of $1 million per occurrence and $1 million annual aggregate, per site, exclusive of legal-defense costs, for claims arising from injury to persons or property, owing to the operation of the site. Evidence of this coverage shall be updated annually and provided to the Office of Environmental Services, Water and Waste Permits Division.

2. - 2.a.iii.(c). …

(d). cancellation of the policy, whether by the insurer or the insured, will be effective only upon written notice and upon lapse of 60 days after a copy of such written notice is received by the Office of Environmental Services, Water and Waste Permits Division;

(e). any other termination of the policy will be effective only upon written notice and upon lapse of 30 days after a copy of such written notice is received by the Office of Environmental Services, Water and Waste Permits Division; and

2.a.iii.(f). - 3.c.v. …

d. The letter of credit must be irrevocable and issued for a period of at least one year unless, at least 120 days before the current expiration date, the issuing institution notifies both the permit holder and the administrative authority by certified mail of a decision not to extend the expiration date. Under the terms of the letter of credit, the 120 days will begin on the date when both the permit holder and the Office of Environmental Services, Water and Waste Permits Division, receive the notice, as evidenced by the return receipts.

e. …

4. Financial Test

a. To meet this test, the applicant, permit holder, or parent corporation of the applicant (corporate guarantor) or permit holder must submit to the Office of Environmental Services, Water and Waste Permits Division, the documents required by Subsection B of this Section demonstrating that the requirements of Subsection B of this Section have been met. Use of the financial test may be disallowed on the basis of the accessibility of the assets of the permit holder, applicant, or parent corporation (corporate guarantor). If the applicant, permit holder, or parent corporation is using the financial test to demonstrate liability coverage and closure and post-closure care, only one letter from the chief financial officer is required.

4.b. - 5.a.iii.

iv. the guarantor agrees that if, at the end of any fiscal year before termination of the guarantee, the guarantor fails to meet the financial-test criteria, the guarantor shall send within 90 days, by certified mail, notice to the Office of Environmental Services, Water and Waste Permits Division, and to the permit holder or applicant, that he intends to provide alternative financial assurance as specified in this Subsection, in the name of the permit holder or applicant, and that within 120 days after the end of said fiscal year the guarantor shall establish such financial assurance, unless the permit holder or applicant has done so;

v. the guarantor agrees to notify the Office of Environmental Services, Water and Waste Permits Division, by certified mail of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming the guarantor as debtor, within 10 days after commencement of the proceeding;

vi. - xi. …

b. A corporate guarantee may be used to satisfy the requirements of this Section only if the attorney general(s) or insurance commissioner(s) of the state in which the guarantor is incorporated, and the state in which the facility covered by the guarantee is located, has submitted a written statement to the Office of Environmental Services, Water and Waste Permits Division, that a corporate guarantee is a legally valid and enforceable obligation in that state.

A.6. - B.1.a. …

b. The applicant or permit holder shall submit to the Office of Environmental Services, Water and Waste Permits Division, the estimated closure date and the estimated cost of closure and post-closure care in accordance with the following procedures.

i. - ii. …

iii. The cost estimates must be adjusted within 30 days after each anniversary of the date on which the first cost estimate was prepared on the basis of either the inflation factor derived from the Annual Implicit Price Deflator for Gross Domestic Product, as published by the U.S. Department of Commerce in its *Survey of Current Business* or a reestimation of the closure and post-closure costs in accordance with Clauses B.1.b.i-ii of this Section. The permit holder or applicant must revise the cost estimate whenever a change in the closure/post-closure plans increases or decreases the cost of the closure plan. The permit holder or applicant must submit a written notice of any such adjustment to the Office of Environmental Services, Water and Waste Permits Division, within 15 days following such adjustment.

1.b.iv. - 2.d. …

3. Trust Funds. A permit holder or applicant may satisfy the requirements of this Section by establishing a closure trust fund that conforms to the following requirements and submitting an originally signed duplicate of the trust agreement to the Office of Environmental Services, Water and Waste Permits Division.

a. - g. …

h. After beginning final closure, a permit holder or any other person authorized by the permit holder to perform closure and/or post-closure may request reimbursement for closure and/or post-closure expenditures by submitting itemized bills to the Office of Environmental Services, Water and Waste Permits Division. Within 60 days after receiving bills for such activities, the administrative authority will determine whether the closure and/or post-closure expenditures are in accordance with the closure plan or otherwise justified, and if so, he or she will instruct the trustee to make reimbursement in such amounts as the administrative authority specifies in writing. If the administrative authority has reason to believe that the cost of closure and/or post-closure will be significantly greater than the value of the trust fund, he may withhold reimbursement for such amounts as he deems prudent until he determines that the permit holder is no longer required to maintain financial assurance.

i. …

4. Surety Bonds. A permit holder or applicant may satisfy the requirements of this Section by obtaining a surety bond that conforms to the following requirements and submitting the bond to the Office of Environmental Services, Water and Waste Permits Division.

a. - e. …

f. Whenever the current cost-estimate increases to an amount greater than the penal sum, the permit holder, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current closure and post-closure estimate and submit evidence of such increase to the Office of Environmental Services, Water and Waste Permits Division, or obtain other financial assurance as specified in this Section to cover the increase. Whenever the current cost estimate decreases, the penal sum may be reduced to the amount of the current cost estimate following written approval by the administrative authority.

g. - h. …

5. Performance Bonds. A permit holder or applicant may satisfy the requirements of this Section by obtaining a surety bond that conforms to the following requirements and submitting the bond to the Office of Environmental Services, Water and Waste Permits Division.

a. - e. …

f. Whenever the current closure cost estimate increases to an amount greater than the penal sum, the permit holder, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current closure and post-closure cost estimates and submit evidence of such increase to the Office of Environmental Services, Water and Waste Permits Division, or obtain other financial assurance as specified in this Section. Whenever the current cost estimate decreases, the penal sum may be reduced to the amount of the current cost estimate after written approval of the administrative authority.

g. Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the permit holder and to the Office of Environmental Services, Water and Waste Permits Division. Cancellation may not occur before 120 days have elapsed beginning on the date that both the permit holder and the administrative authority receive the notice of cancellation, as evidenced by the return receipts.

h. …

6. Letter of Credit. A permit holder or applicant may satisfy the requirements of this Section by obtaining an irrevocable standby letter of credit that conforms to the following requirements and submitting the letter to the Office of Environmental Services, Water and Waste Permits Division.

a. - c.v. …

d. The letter of credit must be irrevocable and issued for a period of at least one year, unless, at least 120 days before the current expiration date, the issuing institution notifies both the permit holder and Office of Environmental Services, Water and Waste Permits Division, by certified mail of a decision not to extend the expiration

date. Under the terms of the letter of credit, the 120 days will begin on the date when both the permit holder and the administrative authority receive the notice, as evidenced by the return receipts.

e. …

f. Whenever the current cost estimates increase to an amount greater than the amount of the credit, the permit holder, within 60 days after the increase, must either cause the amount of the credit to be increased so that it at least equals the current closure and post-closure cost estimates and submit evidence of such increase to the Office of Environmental Services, Water and Waste Permits Division, or obtain other financial assurance as specified in this Section to cover the increase. Whenever the current cost estimate decreases, the amount of the credit may be reduced to the amount of the current closure and post-closure cost estimates upon written approval of the administrative authority.

g. - h. …

7. Insurance. A permit holder or applicant may satisfy the requirements of this Section by obtaining insurance that conforms to the following requirements and submitting a certificate of such insurance to the Office of Environmental Services, Water and Waste Permits Division.

a. - d. …

e. After beginning final closure, a permit holder or any other person authorized by the permit holder to perform closure and post-closure may request reimbursement for closure or post-closure expenditures by submitting itemized bills to the Office of Environmental Services, Water and Waste Permits Division. Within 60 days after receiving such bills, the administrative authority will determine whether the expenditures are in accordance with the closure plan or otherwise justified, and if so, he or she will instruct the insurer to make reimbursement in such amounts as the administrative authority specifies in writing.

f. - g. …

h. The policy must provide that the insurer may not cancel, terminate, or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy must, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may elect to cancel, terminate, or fail to renew the policy by sending notice by certified mail to the permit holder and the Office of Environmental Services, Water and Waste Permits Division. Cancellation, termination, or failure to renew may not occur, however, before 120 days have elapsed, beginning on the date that both the administrative authority and the permit holder receive notice of cancellation, as evidenced by the return receipts. Cancellation, termination, or failure to renew may not occur, and the policy will remain in full force and effect in the event that, on or before the date of expiration:

i. - v. …

i. Whenever the current cost estimate increases to an amount greater than the face amount of the policy, the permit holder, within 60 days after the increase, must either increase the face amount to at least equal to the current closure and post-closure cost estimates and submit evidence of such increase to the Office of Environmental Services, Water and Waste Permits Division, or obtain other financial assurance as specified in this Section to cover the increase. Whenever the current cost estimate decreases, the face amount may be reduced to the amount of the current closure and post-closure cost estimates following written approval by the administrative authority.

7.j. - 8.a.ii.(c). …

b. To demonstrate that he or she meets this test, the permit holder, applicant, or parent corporation of the permit holder or applicant must submit the following three items to Office of Environmental Services, Water and Waste Permits Division:

b.i. - c. …

d. The permit holder, applicant, or parent corporation (if a corporate guarantor) of the permit holder or applicant shall provide to the Office of Environmental Services, Water and Waste Permits Division, a letter from the chief financial officer, the wording of which shall be identical to the wording in Document 9 of LAC 33:IX.7135.Appendix R, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted. The letter shall certify the following information:

d.i. - f. …

g. After initial submission of the items specified in Subparagraph B.8.b of this Section, the permit holder, applicant, or parent corporation of the permit holder or applicant must send updated information to the Office of Environmental Services, Water and Waste Permits Division, within 90 days after the close of each succeeding fiscal year. This information must include all three items specified in Subparagraph B.8.b of this Section.

h. - i.iv. …

v. guarantor agrees that if, at the end of any fiscal year before termination of the guarantee, the guarantor fails to meet the financial test criteria, the guarantor shall send within 90 days after the end of the fiscal year, by certified mail, notice to the Office of Environmental Services, Water and Waste Permits Division, and to the permit holder or applicant that he intends to provide alternative financial assurance as specified in this Subsection, in the name of the permit holder or applicant, and that within 120 days after the end of such fiscal year, the guarantor shall establish such financial assurance unless the permit holder or applicant has done so;

vi. the guarantor agrees to notify the Office of Environmental Services, Water and Waste Permits Division, by certified mail of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming the guarantor as debtor, within 10 days after commencement of the proceeding;

vii. - viii. …

ix. the guarantor agrees to remain bound under the guarantee for as long as the permit holder must comply with the applicable financial assurance requirements of this Subsection for the above-listed facilities, except that the guarantor may cancel this guarantee by sending notice by certified mail to the Office of Environmental Services, Water and Waste Permits Division, and the permit holder or applicant. The cancellation will become effective no earlier than 90 days after receipt of such notice by both the administrative authority and the permit holder or applicant, as evidenced by the return receipts;

8.i.x. - 9.c.iv.(b). …

v. A local government must satisfy the requirements of the financial test at the close of each fiscal year. If the local government owner or operator no longer meets the requirements of the local government financial test, it must, within 210 days following the close of the owner or operator's fiscal year, obtain alternative financial assurance that meets the requirements of this Section, place the required submissions for that assurance in the operating record, and notify the Office of Environmental Services, Water and Waste Permits Division, that the owner or operator no longer meets the criteria of the financial test and that alternate assurance has been obtained.

9.c.vi. - 10.a.i.(b). …

ii. the guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator and to the Office of Environmental Services, Water and Waste Permits Division. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the administrative authority, as evidenced by the return receipts; and

iii. if a guarantee is canceled, the owner or operator must, within 90 days following receipt of the cancellation notice by the owner or operator and the administrative authority, obtain alternate financial assurance, place evidence of that alternate financial assurance in the facility operating record, and notify the Office of Environmental Services, Water and Waste Permits Division. If the owner or operator fails to provide alternate financial assurance within the 90-day period, then the guarantor must provide that alternate assurance within 120 days following the guarantor's notice of cancellation, place evidence of the alternate assurance in the facility operating record, and notify the Office of Environmental Services, Water and Waste Permits Division.

b. - b.ii.(b). …

iii. If a local government guarantor no longer meets the requirements of Paragraph B.9 of this Section, the owner or operator must, within 90 days, obtain alternate assurance, place evidence of the alternate assurance in the facility operating record, and notify the Office of Environmental Services, Water and Waste Permits Division. If the owner or operator fails to obtain alternate financial assurance within that 90-day period, the guarantor must provide that alternate assurance within the next 30 days.

11. - 12. …

a. the administrative authority determines that cost estimates are complete and accurate and the owner or operator has submitted a statement from a registered professional engineer to the Office of Environmental Services, Water and Waste Permits Division, so stating;

b. - d. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(3)(e).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:796 (April 2002), repromulgated LR 30:233 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2516 (October 2005).

Chapter 71. Appendices

§7135. Appendix RCFinancial Assurances Documents

Document 1. Liability Endorsement

COMMERCIAL BLENDER, COMPOSTER, OR MIXER OF SEWAGE SLUDGE
LIABILITY ENDORSEMENT

Secretary
Louisiana Department of Environmental Quality
Post Office Box 4313
Baton Rouge, Louisiana 70821-4313
Attention: Office of Environmental Services,
Water and Waste Permits Division
Dear Sir:

* * *

[See Prior Text in Letter]

Document 2. Certificate of Insurance

COMMERCIAL BLENDER, COMPOSTER, OR MIXER OF SEWAGE SLUDGE FACILITY
CERTIFICATE OF LIABILITY INSURANCE

Secretary
Louisiana Department of Environmental Quality
Post Office Box 4313
Baton Rouge, Louisiana 70821-4313
Attention: Office of Environmental Services,
Water and Waste Permits Division
Dear Sir:

* * *

[See Prior Text in Letter]

Document 3. Letter of Credit

COMMERCIAL BLENDER, COMPOSTER, OR MIXER OF SEWAGE SLUDGE FACILITY
IRREVOCABLE LETTER OF CREDIT

Secretary
Louisiana Department of Environmental Quality
Post Office Box 4313
Baton Rouge, Louisiana 70821-4313
Attention: Office of Environmental Services,
Water and Waste Permits Division
Dear Sir:

* * *

[See Prior Text in Letter]

Document 4. Trust Agreement. - Document 6. Performance Bond. …

Document 7. Letter of Credit

COMMERCIAL BLENDER, COMPOSTER, OR MIXER OF SEWAGE SLUDGE FACILITY
IRREVOCABLE LETTER OF CREDIT

Secretary
Louisiana Department of Environmental Quality
Post Office Box 4313
Baton Rouge, Louisiana 70821-4313
Attention: Office of Environmental Services,
Water and Waste Permits Division
Dear Sir:

* * *

[See Prior Text in Letter]

Document 8. Certificate of Insurance. …

Document 9. Letter from the Chief Financial Officer

COMMERCIAL BLENDER, COMPOSTER, OR MIXER OF SEWAGE SLUDGE FACILITY
LETTER FROM THE CHIEF FINANCIAL OFFICER
(LIABILITY COVERAGE, CLOSURE, AND/OR POST-CLOSURE)

Secretary
Louisiana Department of Environmental Quality
Post Office Box 4313
Baton Rouge, Louisiana 70821-4313
Attention: Office of Environmental Services,
Water and Waste Permits Division
Dear Sir:

* * *

[See Prior Text in Letter]

Document 10. Corporate Guarantee. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:818 (April 2002), repromulgated LR 30:233 (February 2004), amended by the Office of Environmental Assessment, LR 30:2028 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2519 (October 2005).

Part XI. Underground Storage Tanks

Chapter 3. Registration Requirements, Standards, and Fee Schedule

§301. Registration Requirements

A. - A.2. …

3. All existing UST systems previously registered with the department shall be considered to be in compliance with this requirement if the information on file with the department is current and accurate. Maintaining current and accurate information with the department includes notifying the department's Office of Environmental Services, Water and Waste Permits Division, of changes in ownership, or of changes in UST system descriptions resulting from upgrading, by filing an amended registration form within 30 days of the change in ownership or in description of the UST system.

B. New UST Systems. Upon the effective date of these regulations, all owners of new *UST systems* (as defined in LAC 33:XI.103) must, at least 30 days before bringing such tanks into use, register them on an *Underground Storage Tank Registration Form* (UST-REG-01). Registration forms shall be filed with the Office of Environmental Services, Water and Waste Permits Division. The following registration requirements apply to new UST systems:

B.1. - C. …

1. Any person who sells a UST system shall so notify the Office of Environmental Services, Water and Waste Permits Division, in writing within 30 days after the date of the transaction. A person selling a UST must also notify the person acquiring a regulated UST system of the owner's registration obligations under this Section.

2. Any person who acquires a UST system shall submit to the Office of Environmental Services, Water and Waste Permits Division, an amended registration form within 30 days after the date of acquisition.

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 Solid and Hazardous Waste, Underground Storage Tank Division, LR 11:1139 (December 1985), amended LR 16:614 (July 1990), LR 17:658 (July 1991), LR 18:727 (July 1992), LR 20:294 (March 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2558 (November 2000), LR 28:475 (March 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 31:0000 (October 2005).1066 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2520 (October 2005).

§303. Standards for UST Systems

A. - B.4.b.i.(e). …

ii. Beginning January 20, 1992, all owners and operators must ensure that the individual exercising supervisory control over *installation critical-junctures* (as defined in LAC 33:XI.1303) of a UST system is certified in accordance with LAC 33:XI.Chapter 13. To demonstrate compliance with Subparagraph B.4.a of this Section, all owners and operators must provide a certification of compliance on the *UST Registration of Technical Requirements Form* (UST-REG-02) within 60 days of the introduction of any regulated substance. Forms shall be filed with the Office of Environmental Services, Water and Waste Permits Division.

B.4.c. - C.6.a. …

b. An amended registration form (UST-REG-02) must be submitted to the Office of Environmental Services, Water and Waste Permits Division, within 30 days after the UST system is upgraded. The owner and operator must certify compliance with Subsection C of this Section on the amended registration form (UST-REG-02). Beginning January 20, 1992, the amended registration forms (UST-REG-01 and 02) shall include the name and department-issued certificate number of the individual exercising supervisory control over those steps in the upgrade that involve *repair-critical junctures* or *installation-critical junctures* (as defined in LAC 33:XI.1303) of a UST system.

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 11:1139 (December 1985), amended LR 16:614 (July 1990), LR 17:658 (July 1991), LR 18:728 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2558 (November 2000), LR 28:475 (March 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 31:0000 (October 2005).1066 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2520 (October 2005).

Chapter 9. Out-of-Service UST Systems and Closure

§903. Temporary Closure

A. - B.2. …

3. submit a completed copy of the registration form UST-REG-01 to the Office of Environmental Services, Water and Waste Permits Division, indicating the dates the UST system was temporarily closed.

C. …

D. When a UST system is temporarily closed for more than 24 months, owners and operators shall complete a site assessment in accordance with LAC 33:XI.907. The results of the assessment and documentation of compliance with the temporary closure requirements in Subsection A of this Section must be submitted in duplicate to the Office of Environmental Compliance, Surveillance Division, within 60 days following the end of the 24-month temporary closure period.

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, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of the Secretary, Legal Affairs Division, LR 31:0000 (October 2005).1074 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2520 (October 2005).

Chapter 11. Financial Responsibility

§1111. Financial Test of Self-Insurance

A. - C.5.b. …

D. To demonstrate that it meets the financial test under Subsection B or C of this Section, the chief financial officer of the owner or operator, or guarantor, must sign, within 120 days of the close of each *financial reporting year,* as defined by the 12-month period for which financial statements used to support the financial test are prepared, a letter worded exactly as follows, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted. To prepare this letter, the owner or operator must use the form required by the department. This form may be obtained from the department's Office of Environmental Services, Water and Waste Permits Division.

LETTER FROM CHIEF FINANCIAL OFFICER

* * *

[See Prior Text in Letter]

E. - F. …

G. If the owner or operator fails to obtain alternate assurance within 150 days of finding that he or she no longer meets the requirements of the financial test based on the year-end financial statements, or within 30 days of notification by the administrative authority that he or she no longer meets the requirements of the financial test, the owner or operator must notify the Office of Environmental Services, Water and Waste Permits Division, of such failure within 10 days.

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 by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2560 (November 2000), LR 27:2232 (December 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2521 (October 2005).

§1113. Guarantee

A. - A.2. …

B. Within 120 days of the close of each financial reporting year the guarantor must demonstrate that it meets the financial test criteria of LAC 33:XI.1111 based on year-end financial statements for the latest completed financial reporting year by completing the letter from the chief financial officer described in LAC 33:XI.1111.D and must deliver the letter to the owner or operator. If the guarantor fails to meet the requirements of the financial test at the end of any financial reporting year, within 120 days of the end of that financial reporting year the guarantor shall send by certified mail, before cancellation or nonrenewal of the guarantee, notice to the owner or operator and to the Office of Environmental Services, Water and Waste Permits Division. If the Office of Environmental Services, Water and Waste Permits Division, notifies the guarantor that he no longer meets the requirements of the financial test of LAC 33:XI.1111.B or C and D, the guarantor must notify the owner or operator within 10 days of receiving such notification from the Office of Environmental Services, Water and Waste Permits Division. In both cases, the guarantee will terminate no less than 120 days after the date the owner or operator receives the notification, as evidenced by the return receipt. The owner or operator must obtain alternative coverage as specified in LAC 33:XI.1139.C.

C. - D. …

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 by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2561 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2521 (October 2005).

§1123. Trust Fund

A. - C. …

D. If the value of the trust fund is greater than the required amount of coverage, the owner or operator may submit a written request to the Office of Environmental Services, Water and Waste Permits Division, for release of the excess.

E. If other financial assurance as specified in this Chapter is substituted for all or part of the trust fund, the owner or operator may submit a written request to the Office of Environmental Services, Water and Waste Permits Division, for release of the excess.

F. …

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 by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2561 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2521 (October 2005).

§1129. Cancellation or Nonrenewal by a Provider of Financial Assurance

A. - A.2. …

B. If a provider of financial responsibility cancels or fails to renew for reasons other than incapacity of the provider as specified in LAC 33:XI.1131, the owner or operator must obtain alternate coverage as specified in this Section within 60 days after receipt of the notice of termination. If the owner or operator fails to obtain alternate coverage within 60 days after receipt of the notice of termination, the owner or operator must notify the Office of Environmental Services, Water and Waste Permits Division, of such failure and submit:

1. - 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, Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2561 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2521 (October 2005).

§1131. Reporting by Owner or Operator

A. An owner or operator must submit to the Office of Environmental Services, Water and Waste Permits Division, the appropriate forms listed in LAC 33:XI.1133.B

documenting current evidence of financial responsibility as follows.

A.1. - C. …

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 by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2562 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2521 (October 2005).

§1139. Bankruptcy or Other Incapacity of Owner or Operator or Provider of Financial Assurance

A. Within 10 days after commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming an owner or operator as debtor, the owner or operator must notify the Office of Environmental Services, Water and Waste Permits Division, by certified mail of such commencement and submit the appropriate forms listed in LAC 33:XI.1133.B documenting current financial responsibility.

B. …

C. An owner or operator who obtains financial assurance by a mechanism other than the financial test of self-insurance will be deemed to be without the required financial assurance in the event of a bankruptcy or incapacity of its provider of financial assurance, or a suspension or revocation of the authority of the provider of financial assurance to issue a guarantee, insurance policy, risk retention group coverage policy, surety bond, or letter of credit. The owner or operator must obtain alternate financial assurance as specified in this Chapter within 30 days after receiving notice of such an event. If the owner or operator does not obtain alternate coverage within 30 days after such notification, he must notify the Office of Environmental Services, Water and Waste Permits Division.

D. …

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 by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2562 (November 2000), amended by the Office of the Environmental Assessment, LR 31:1578 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2522 (October 2005).

Chapter 12. Requirements for Response Action Contractors who Assess and Remediate Motor Fuel Contaminated Sites Eligible for Cost Reimbursement in Accordance with the Motor Fuels Underground Storage Tank Trust Fund (MFUSTTF)

§1205. Qualifications

A. - B. …

C. The RAC List will be updated once per quarter to include applicants who have met the requirements of this Section. All new applications or annual updates shall be submitted to the Office of Environmental Services, Water and Waste Permits Division, by 4:30 p.m. on or before the fifteenth day of March, June, September, and December.

D. - E. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2194(C) and 2195.10.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:523 (April 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2522 (October 2005).

Chapter 13. Certification Requirements for Persons Who Install, Repair, or Close Underground Storage Tank Systems

§1305. Categories of Certification and Requirements for Issuance and Renewal of Certificates

A. - B. …

1. To qualify for an examination, a person need not be a resident of Louisiana. A person must provide to the Office of Environmental Services, Water and Waste Permits Division, payment of the examination fee and meet the following requirements to be eligible for a UST certification examination.

B.1.a. - E. …

F. Expiration and Renewal of Certificates

1. All UST certificates and certificate renewals shall expire December 31 of every second year. Applications for certificate renewal and payment of the renewal fee should be submitted to the Office of Environmental Services, Water and Waste Permits Division, by November 1 of each year they expire. A person whose certificate has expired prior to his or her submission of evidence of compliance with Paragraph F.2 of this Section shall be considered a new applicant for certification.

F.2. - G.2. …

H. Changes in Employment. It is incumbent upon a certified person to provide written notification to the Office of Environmental Services, Water and Waste Permits Division, within 20 days after his or her knowledge of a change in employment.

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 26:2562 (November 2000), LR 29:691 (May 2003), LR 29:2052 (October 2003), amended by the Office of Environmental Assessment, LR 30:2804 (December 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2522 (October 2005).

§1309. Approval of Continuing Training Courses

A. No course in continuing education submitted to the Office of Environmental Services, Water and Waste Permits Division, will be considered for approval unless the course:

1. - 2. …

B. Applications for approval of specific training programs shall be submitted to the Office of Environmental Services, Water and Waste Permits Division, in writing. Such submissions shall contain a complete course outline; training material; sample certificates; methodology for verifying attendance; date, time, and location of the course; the name of the offering organization; the credentials of the instructors; and a certification that the technology or methods that will be presented in the training program will

satisfy department rules, and state and federal laws governing UST system installation, repair, or closure.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2562 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2522 (October 2005).

Part XV. Radiation Protection

Chapter 2. Registration of Radiation Machines and Facilities

§204. Application for Registration of Radiation Machines and Facilities

A. …

1. apply for registration of such facility and each radiation machine with the Office of Environmental Compliance, Emergency and Radiological Services Division, prior to the operation of a radiation machine facility. Application for registration shall be completed on Form DRC-6 furnished by the department upon request in writing and shall contain all the information required by the form and accompanying instructions. The registration of the first radiation producing machine at a facility constitutes registration of the facility itself;

2. - 3 …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2565 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2523 (October 2005).

§205. Application for Registration of Servicing and Services

A. Each person who is engaged in the business of installing or offering to install radiation machines or is engaged in the business of furnishing or offering to furnish radiation machine servicing or services in this state shall apply for registration of such services with the Office of Environmental Compliance, Emergency and Radiological Services Division, within 30 days after the effective date of this Chapter or thereafter prior to furnishing or offering to furnish any such services.

B. Application for registration shall be completed on Form DRC-22 furnished by the Office of Environmental Compliance, Emergency and Radiological Services Division, upon request in writing and shall contain all information required by the form and accompanying instructions.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2565 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2523 (October 2005).

§209. Report of Changes

A. The registrant shall notify the Office of Environmental Compliance, Emergency and Radiological Services Division, in writing before making any change that would render the information contained in the application for registration and/or registration certificate no longer accurate.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2566 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2523 (October 2005).

§211. Assembler and/or Transferor Obligation

A. Any person who sells, leases, transfers, lends, disposes, assembles, or installs radiation machines in this state shall notify the Office of Environmental Compliance, Emergency and Radiological Services Division, at 15-day intervals of:

A.1. - C. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2566 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2523 (October 2005).

§212. Reciprocal Recognition of Out-of-State Radiation Machines

A. …

1. the person proposing to bring such machine into the state shall give written notice to the Office of Environmental Compliance, Emergency and Radiological Services Division, at least three working days before such machine is to be used in the state. Additional requirements for work involving industrial radiography at temporary job sites may be found in LAC 33:XV.Chapter 5. The notice shall include:

a. - c. …

2. if, for a specific case, the three-working-day period would impose an undue hardship on the person, upon written application to the Office of Environmental Compliance, Emergency and Radiological Services Division, permission to proceed sooner may be granted.

B. - B.2. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2566 (November 2000), LR 29:1815 (September 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2523 (October 2005).

§213. Modification, Revocation, and Termination of Registration Certificate

A. - C. …

D. The department will terminate a registration certificate upon written request by the registrant, provided the registrant no longer possesses the registered device or provided the registrant has rendered the unit permanently incapable of producing radiation. The registrant shall notify the Office of Environmental Compliance, Emergency and Radiological Services Division, within 60 days of the final disposition of the X-ray machine.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2566 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2524 (October 2005).

Chapter 3. Licensing of Radioactive Material

Subchapter B. Licenses

§320. Types of Licenses

A. …

1. General licenses provided in this Chapter are effective without the filing of application with the Office of Environmental Compliance, Emergency and Radiological Services Division, or the issuance of licensing documents to the particular persons, although the filing of certain information with the Office of Environmental Compliance, Emergency and Radiological Services Division, may be required by the particular general license. The general licensee is subject to all other applicable portions of these regulations and to any limitations of the general license.

2. Specific licenses require the submission of an application to the Office of Environmental Compliance, Emergency and Radiological Services Division, and the issuance of a licensing document by the administrative authority. The licensee is subject to all applicable portions of these regulations as well as to any limitations specified in the licensing document. The licensee shall notify the Office of Environmental Compliance, Emergency and Radiological Services Division, in writing before making any change that would render the information contained in the application for license no longer accurate.

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), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2566 (November 2000), LR 29:1816 (September 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2524 (October 2005).

Subchapter C. General Licenses

§321. General Licenses: Source Material

A. - E.2. …

3. Depleted Uranium

a. Persons who receive, acquire, possess, or use depleted uranium pursuant to the general license established by Paragraph E.1 of this Section shall file Form DRC-21, "General License CertificateCUse of Depleted Uranium Under General License," with the Office of Environmental Compliance, Emergency and Radiological Services Division. Form DRC-21 will be furnished by the Office of Environmental Compliance, Emergency and Radiological Services Division, upon written request. The form shall be submitted within 30 days after the first receipt or acquisition of such depleted uranium. The general licensee shall furnish on Form DRC-2l the following information and such other information as may be required by that form:

i. - iii. ...

b. The licensee possessing or using depleted uranium under the general license established by Paragraph E.1 of this Section shall report in writing to the Office of Environmental Compliance, Emergency and Radiological Services Division, any changes in information furnished by him in Form DRC-21, "General License Certificate—Use of Depleted Uranium Under General License." The report shall be submitted within 30 days after the effective date of such change.

4. - 4.c. …

d. within 30 days of any transfer, shall report in writing to the Office of Environmental Compliance, Emergency and Radiological Services Division, the name and address of the person receiving the depleted uranium pursuant to such transfer; and

4.e. - 5.…

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), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2567 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2524 (October 2005).

§322. General Licenses: Radioactive Material Other Than Source Material

A. - D.3.d. …

e. upon the occurrence of a failure of or damage to, or any indication of a possible failure of or damage to, the shielding of the radioactive material or the on-off mechanism or indicator, or upon the detection of 0.005 microcurie or more of removable radioactive material, immediately suspend operation of the device until it has been repaired by the manufacturer or other person holding an applicable specific license from the administrative authority, the U.S. Nuclear Regulatory Commission, or any other agreement state or licensing state to repair such devices, or disposed of by transfer to a person authorized by an applicable specific license to receive the radioactive material contained in the device and, within 30 days, furnish to the Office of Environmental Compliance, Emergency and Radiological Services Division, a report containing a brief description of the event and the remedial action taken;

f. …

g. except as provided in Subparagraph D.3.h of this Section, transfer or dispose of the device containing radioactive material only by export as provided in 10 CFR Part 110 or by transfer to a specific licensee of the department, the U.S. Nuclear Regulatory Commission, or any other agreement state or licensing state whose specific license authorizes him or her to receive the device and

within 30 days after transfer of a device to a specific licensee shall furnish to the Office of Environmental Compliance, Emergency and Radiological Services Division, a report containing identification of the device by manufacturer's name and model number, and the name and address of the person receiving the device. No report is required if the device is transferred to the specific licensee in order to obtain a replacement device;

h. …

i. where the device remains in use at a particular location. In such case the transferor shall give the transferee a copy of this regulation and any safety documents identified in the label on the device and within 30 days of the transfer, report to the Office of Environmental Compliance, Emergency and Radiological Services Division, the manufacturer's name and model number of device transferred, the name and address of the transferee, and the name and/or position of an individual who may constitute a point of contact between the department and the transferee; or

h.ii. - l. …

i. annual registration with the Office of Environmental Compliance, Emergency and Radiological Services Division, shall include payment of the fee required by LAC 33:XV.2505. Registration must be done by verifying, correcting, and/or adding to the information provided in a request for registration received from the department. The registration information must be submitted to the department within 30 days of the date of the request for registration or as otherwise indicated in the request;

ii. - iii. …

m. report changes to the mailing address for the location of use (including change in the name of the general licensee) to the Office of Environmental Compliance, Emergency and Radiological Services Division, within 30 days of the effective date of the change. For a portable device, a report of address change is only required for a change in the device's primary place of storage;

D.3.n. - J.4. …

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), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2567 (November 2000), LR 27:1226 (August 2001), LR 30:1663 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2524 (October 2005).

Subchapter D. Specific Licenses

§324. Filing Application for Specific Licenses

A. Applications for specific licenses shall be filed on a form prescribed by the Office of Environmental Compliance, Emergency and Radiological Services Division, or in any other manner specified by the department.

B. - J.13. …

K. The licensee shall allow the off-site response organizations expected to respond in case of accident 60 days to comment on the licensee's emergency plan before submitting it to the Office of Environmental Compliance, Emergency and Radiological Services Division. The licensee shall provide any comments received within the 60 days to the Office of Environmental Compliance, Emergency and Radiological Services Division, with the emergency plan.

[1]These reporting requirements do not supersede or release licensees of complying with requirements under the Emergency Planning and Community Right-to-Know Act of 1986, Title III, Pub. L. 99-499 or other state or federal reporting requirements.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), LR 20:179 (February 1994), amended by the Office of the Secretary, LR 22:345 (May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2567 (November 2000), LR 27:1227 (August 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2525 (October 2005).

§326. Special Requirements for Issuance of Certain Specific Licenses for Radioactive Material

A. - E.1. …

a. The applicant will have an adequate program for training radiographers and submits to the Office of Environmental Compliance, Emergency and Radiological Services Division, a schedule or description of such program that specifies the:

i. - iv. …

b. The applicant has established and submits to the Office of Environmental Compliance, Emergency and Radiological Services Division, satisfactory written operating and emergency procedures as described in LAC 33:XV.576.

c. …

d. The applicant submits to the Office of Environmental Compliance, Emergency and Radiological Services Division, a description of his or her overall organizational structure pertaining to the industrial radiography program, including specified delegations of authority and responsibility for operation of the program.

e. The applicant who desires to conduct his or her own leak tests of sealed sources or exposure devices containing depleted uranium (DU) shielding has established adequate procedures to be followed in testing for possible leakage and contamination and submits to the Office of Environmental Compliance, Emergency and Radiological Services Division, a description of such procedures including:

e.i. - 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 the Secretary, Legal Affairs Division, LR 31:0000 (October 2005).45 (January 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2525 (October 2005).

§328. Special Requirements for Specific License to Manufacture, Assemble, Repair, or Distribute Commodities, Products, or Devices that Contain Radioactive Material

A. - A.1. …

a. the applicant submits to the Office of Environmental Compliance, Emergency and Radiological Services Division, a description of the product or material into which the radioactive material will be introduced, the intended use of the radioactive material, and the product or material into which it is introduced, method of introduction, initial concentration of the radioactive material in the product or material, control methods to ensure that no more than the specified concentration is introduced into the product or material, estimated time interval between introduction and transfer of the product or material, and estimated concentration of the radioactive material in the product or material at the time of transfer;

b. …

2. Each person licensed under this Subsection shall file an annual report with the Office of Environmental Compliance, Emergency and Radiological Services Division, that shall identify the type and quantity of each product or material into which radioactive material has been introduced during the reporting period; name and address of the person who owned or possessed the product or material into which radioactive material has been introduced, at the time of introduction; the type and quantity of radionuclide introduced into each such product or material; and the initial concentrations of the radionuclide in the product or material at time of transfer of the radioactive material by the licensee. If no transfers of radioactive material have been made pursuant to this Subsection during the reporting period, the report shall so indicate. The report shall cover the year ending June 30 and shall be filed within 30 calendar days thereafter.

B. - B.1.a.ii. …

iii. the applicant submits copies of prototype labels and brochures, and the Office of Environmental Compliance, Emergency and Radiological Services Division, approves such labels and brochures.

b. - b.iv.(c). …

c. Each person licensed under this Subsection shall maintain records identifying, by name and address, each person to whom radioactive material is transferred for use under LAC 33:XV.304.B or the equivalent regulations of the licensing state and stating the kinds and quantities of radioactive material transferred. An annual summary report stating the total quantity of each radionuclide transferred under the specific license shall be filed with the Office of Environmental Compliance, Emergency and Radiological Services Division. Each report shall cover the year ending June 30 and shall be filed within 30 calendar days thereafter. If no transfers of radioactive material have been made pursuant to this Subsection during the reporting period, the report shall so indicate.

C. - D.1.a. …

b. The applicant submits to the Office of Environmental Compliance, Emergency and Radiological Services Division, sufficient information relating to the design, manufacture, prototype testing, quality control, labels, proposed uses, installation, servicing, leak testing, operating and safety instructions, and potential hazards of the device to provide reasonable assurance of the following.

1.b.i. - 4.a. …

b. Report all transfers of devices to persons for use under the general license in LAC 33:XV.322.D.1 and all receipts of devices from persons licensed under LAC 33:XV.322.D.1 to the Office of Environmental Compliance, Emergency and Radiological Services Division. The report must be submitted on a quarterly basis on a RAD-41 Form or in a clear and legible report containing all of the data required by the form.

b.i. - d. …

e. Report to the Office of Environmental Compliance, Emergency and Radiological Services Division, all transfers of such devices to persons for use under the general license in LAC 33:XV.322.D. Such reports must be maintained for a period of three years following the date of the recorded event and shall identify each general licensee by name and address, an individual by name and/or position who may constitute a point of contact between the department and the general licensee, the type and model number of device transferred, and the quantity and type of radioactive material contained in the device. If one or more intermediate persons will temporarily possess the device at the intended place of use prior to its possession by the user, the report shall include identification of each intermediate person by name, address, contact, and relationship to the intended user. If no transfers have been made to persons generally licensed under LAC 33:XV.322.D during the reporting period, the report shall so indicate. The report shall cover each calendar quarter and shall be filed within 30 days thereafter.

D.4.f. - J.1.a. …

b. the applicant submits to the Office of Environmental Compliance, Emergency and Radiological Services Division, evidence that the applicant is at least one of the following:

i. - iv. …

c. the applicant submits to the Office of Environmental Compliance, Emergency and Radiological Services Division, information on the radionuclide, chemical and physical form, packaging including maximum activity per package, and shielding provided by the radioactive material that is appropriate for safe handling and storage of radiopharmaceuticals by group licensees; and

1.d. - 2.d. …

e. shall provide to the Office of Environmental Compliance, Emergency and Radiological Services Division, a copy of each individual's certification by the Board Of Pharmaceutical Specialties and the department, licensing state, Nuclear Regulatory Commission, or agreement state license or the permit issued by a licensee of broad scope and a copy of the state pharmacy licensure or registration, no later than 30 days after the date that the licensee allows the individual to work as an authorized nuclear pharmacist, in accordance with Clauses J.2.b.i and iii of this Section.

J.3. - L.1.a. …

b. The applicant submits to the Office of Environmental Compliance, Emergency and Radiological Services Division, sufficient information regarding each type

of source or device pertinent to an evaluation of its radiation safety, including:

L.1.b.i. - M.1.a. …

b. the applicant submits to the Office of Environmental Compliance, Emergency and Radiological Services Division, sufficient information relating to the design, manufacture, prototype testing, quality control procedures, labeling or marking, proposed uses, and potential hazards of the industrial product or device to provide reasonable assurance that possession, use, or transfer of the depleted uranium in the product or device is not likely to cause any individual to receive in any period of one calendar quarter a radiation dose in excess of 10 percent of the limits specified in LAC 33:XV.410.A; and

c. the applicant submits to the Office of Environmental Compliance, Emergency and Radiological Services Division, sufficient information regarding the industrial product or device and the presence of depleted uranium for a mass-volume application in the product or device to provide reasonable assurance that unique benefits will accrue to the public because of the usefulness of the product or device.

2. - 4.d.ii. …

e. report to the Office of Environmental Compliance, Emergency and Radiological Services Division, all transfers of industrial products or devices to persons for use under the general license in LAC 33:XV.321.E. Such report shall identify each general licensee by name and address, an individual by name and/or position who may constitute a point of contact between the department and the general licensee, the type and model number of device transferred, and the quantity of depleted uranium contained in the product or device. The report shall be submitted within 30 days after the end of each calendar quarter in which such a product or device is transferred to the generally licensed person. If no transfers have been made to persons generally licensed under LAC 33:XV.321.E during the reporting period, the report shall so indicate;

f. - g. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 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 26:2768 (December 2000), LR 27:1228 (August 2001), LR 30:1664 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2526 (October 2005).

§331. Specific Terms and Conditions of Licenses

A. - C. …

D. Each licensee shall notify the Office of Environmental Compliance, Emergency and Radiological Services Division, in writing when the licensee decides to permanently discontinue all activities involving materials authorized under the license. This notification requirement applies to all specific licenses issued under this Chapter.

E. Each licensee shall notify the Office of Environmental Compliance, Emergency and Radiological Services Division, in writing, immediately following the filing of a voluntary or involuntary petition for bankruptcy under any Chapter of Title 11 (Bankruptcy) of the *United States Code* by or against:

E.1. - F. …

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), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2571 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2527 (October 2005).

§332. Expiration and Termination of Licenses and Decommissioning of Sites and Separate Buildings or Outdoor Areas

A. …

B. Each licensee shall notify the Office of Environmental Compliance, Emergency and Radiological Services Division, immediately, in writing, and request termination of the license when the licensee decides to terminate all activities involving radioactive material authorized under the license. This notification and request for termination of the license must include the reports and information specified in Subparagraph D.1.e of this Section.

C. - C.1. …

2. notify the Office of Environmental Compliance, Emergency and Radiological Services Division, in writing, if the licensee decides not to renew the license.

D. - D.1.c. …

d. submit a completed form to the Office of Environmental Compliance, Emergency and Radiological Services Division, that certifies information concerning the disposition of materials; and

e. submit a radiation survey report to the Office of Environmental Compliance, Emergency and Radiological Services Division, to confirm the absence of radioactive material or to establish the levels of residual radioactive contamination, unless the licensee demonstrates the absence of residual radioactive contamination in some other manner. The licensee shall, as appropriate:

1.e.i. - 5.c.ii.(b). …

6. Timeliness of Decommissioning

a. Within 60 days of the occurrence of any of the following, each licensee shall provide notification to the Office of Environmental Compliance, Emergency and Radiological Services Division, in writing of such occurrence and either begin decommissioning its site, or any separate building or outdoor area that contains residual radioactivity, so that the building or outdoor area is suitable for release for unrestricted use, or submit within 12 months of notification a decommissioning plan, if required by Paragraph D.2 of this Section, and begin decommissioning upon approval of that plan if:

D.6.a.i. - E.2. …

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 24:2094 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2571 (November 2000), LR 26:2768 (December

2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2527 (October 2005).

§361. Registration of Product Information

A. …

B. The request for review must be sent by an appropriate method to the Office of Environmental Compliance, Emergency and Radiological Services Division.

C. - F.2. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, LR 31:45 (January 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2528 (October 2005).

Subchapter E. Reciprocity

§390. Reciprocal Recognition of Licenses

A. - A.1. …

2. For each separate location in Louisiana, the out-of-state licensee notifies the Office of Environmental Compliance, Emergency and Radiological Services Division, in writing at least three working or business days prior to engaging in such activity. Such notification shall indicate the location, period, and type of proposed possession and use within the state and shall be accompanied by a copy of the pertinent licensing document. If, for a specific case, the three working or business day period would impose an undue hardship on the out-of-state licensee, he or she may, upon written application to the Office of Environmental Compliance, Emergency and Radiological Services Division, obtain permission to proceed sooner. The department may waive the requirement for filing additional written notifications following the receipt of the initial written notification from a person engaging in activities under the general license provided in this Subsection.

3. - 5. …

6. Any out-of-state licensee who establishes a permanent office in Louisiana shall notify the Office of Environmental Compliance, Emergency and Radiological Services Division, within 10 calendar days of establishing such office and shall, upon direction by the department and within 30 calendar days, make application for a radioactive material license in accordance with LAC 33:XV.326.E.

A.7. - B. …

1. Such person shall file a report with the Office of Environmental Compliance, Emergency and Radiological Services Division, within 30 calendar days after the end of each calendar quarter in which any device is transferred to or installed in this state. Each such report shall identify each general licensee to whom such device is transferred by name and address, the type of device transferred, and the quantity and type of radioactive material contained in the device.

B.2. - C. …

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), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2574 (November 2000), LR 26:2768 (December 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2528 (October 2005).

Subchapter Z. Appendices

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

Schedule A. - Appendix A. …

Appendix B

Criteria Relating to Use of Financial Tests and Parent Company Guarantees for Providing Reasonable Assurance of Funds for Decommissioning

An applicant or licensee may provide reasonable assurance of the availability of funds for decommissioning based on obtaining a parent company guarantee that funds will be available for decommissioning costs and on a demonstration that the parent company passes a financial test. This Appendix establishes criteria for passing the financial test and for obtaining the parent company guarantee.

A. - A.2.c. …

B. The parent company's independent certified public accountant must have compared the data used by the parent company in the financial test, which is derived from the independently audited, year-end financial statements for the latest fiscal year, with the amounts in such financial statement. In connection with that procedure the licensee shall inform the Office of Environmental Compliance, Emergency and Radiological Services Division, within 90 days of any matters coming to the auditor's attention which cause the auditor to believe that the data specified in the financial test should be adjusted and that the company no longer passes the test.

C. …

D. If the parent company no longer meets the requirements of Subsection A of this Appendix, the licensee must send notice to the Office of Environmental Compliance, Emergency and Radiological Services Division, of intent to establish alternate financial assurance as specified in these regulations. The notice must be sent by certified mail within 90 days after the end of the fiscal year for which the year-end financial data show that the parent company no longer meets the financial test requirements. The licensee must provide alternate financial assurance within 120 days after the end of such fiscal year.

E. …

1. The parent company guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the licensee and the Office of Environmental Compliance, Emergency and Radiological Services Division. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the licensee and the department, as evidenced by the return receipt.

2. - 4. …

Appendix C. - Appendix F. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), LR 20:180 (February 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2574 (November 2000), LR 27:1228 (August 2001), amended by the Office of Environmental Assessment, LR 31:46 (January 2005), LR 31:1580 (July 2005),

amended by the Office of the Secretary, Legal Affairs Division, LR 31:2528 (October 2005).

Chapter 4. Standards for Protection against Radiation

Subchapter C. Surveys and Monitoring

§430. General

A. - C.1.b. …

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

D. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended LR 20:653 (June 1994), LR 22:971 (October 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:1468 (August 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2529 (October 2005).

Subchapter D. Control of Exposure From External Sources in Restricted Areas

§436. Control of Access to High Radiation Areas

A. - B. …

C. The licensee or registrant may apply to the Office of Environmental Compliance, Emergency and Radiological Services Division, for approval of alternative methods for controlling access to high radiation areas.

D. - G. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2576 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2529 (October 2005).

§438. Control of Access to Very High Radiation AreasCIrradiators

A. - B.9.b. …

c. the licensee or registrant shall submit to the Office of Environmental Compliance, Emergency and Radiological Services Division, and adhere to a schedule for periodic tests of the entry control and warning systems;

10. - 11. …

C. Licensees, registrants, or applicants for licenses or registrations for sources of radiation within the purview of Subsection B of this Section that will be used in a variety of positions or in locations, such as open fields or forests, that make it impracticable to comply with certain requirements of Subsection B of this Section, such as those for the automatic control of radiation levels, may apply to the Office of Environmental Compliance, Emergency and Radiological Services Division, for approval of alternative safety measures. Alternative safety measures shall provide personnel protection at least equivalent to those specified in Subsection B of this Section. At least one of the alternative measures shall include an entry-preventing interlock control based on a measurement of the radiation that ensures the absence of high radiation levels before an individual can gain access to the area where such sources of radiation are used.

D. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2576 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2529 (October 2005).

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

§442. Use of Individual Respiratory Protection Equipment

A. - A.1. …

2. the licensee or registrant may use equipment that has not been tested or certified by NIOSH/MSHA, has not had certification extended by NIOSH/MSHA, or for which there is no schedule for testing or certification, provided the licensee or registrant has submitted to the Office of Environmental Compliance, Emergency and Radiological Services Division, and the Office of Environmental Compliance, Emergency and Radiological Services Division, has approved an application for authorized use of that equipment, including a demonstration by testing, or a demonstration on the basis of test information, that the material and performance characteristics of the equipment are capable of providing the proposed degree of protection under anticipated conditions of use;

A.3. - B.1. …

2. the licensee or registrant shall obtain authorization from the Office of Environmental Compliance, Emergency and Radiological Services Division, before assigning respiratory protection factors in excess of those specified in LAC 33:XV.499.Appendix A. The department may authorize a licensee or registrant to use higher protection factors on receipt of an application that:

B.2.a. - C. …

D. The licensee or registrant shall notify the Office of Environmental Compliance, Emergency and Radiological Services Division, in writing at least 30 days before the date that respiratory protection equipment is first used pursuant to either Subsection A or B of this Section.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), LR 22:972 (October 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2577 (November 2000), LR 29:1469 (August 2003), LR 30:1666 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2529 (October 2005).

Subchapter H. Waste Disposal

§461. Method for Obtaining Approval of Proposed Disposal Procedures

A. A licensee or registrant or applicant for a license or registration may apply to the Office of Environmental Compliance, Emergency and Radiological Services

Division, for approval of proposed procedures, not otherwise authorized in these regulations, to dispose of licensed or registered sources of radiation generated in the licensee's or registrant's operations. Each application shall include:

1. - 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 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2577 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2529 (October 2005).

Subchapter J. Reports

§488. Reports of Planned Special Exposures

A. The licensee or registrant shall submit a written report to the Office of Environmental Compliance, Emergency and Radiological Services Division, within 30 days following any planned special exposure conducted in accordance with LAC 33:XV.415, informing the department that a planned special exposure was conducted and indicating the date the planned special exposure occurred and the information required by LAC 33:XV.475.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2579 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2530 (October 2005).

§490. Reports of Individual Monitoring

A. - A.3, Footnote [a]. …

B. Each licensee or registrant in a category listed in Subsection A of this Section shall submit to the Office of Environmental Compliance, Emergency and Radiological Services Division, an annual report of the results of individual monitoring carried out by the licensee or registrant for each individual for whom monitoring was required by LAC 33:XV.431 during that year. The licensee or registrant may include additional data for individuals for whom monitoring was provided but not required. The licensee or registrant shall use department Form DRC-5 or equivalent or electronic media containing all the information required by department Form DRC-5.

C. The licensee or registrant shall file the report required by Subsection B of this Section, covering the preceding year, on or before April 30 of each year. The licensee or registrant shall submit the report to the Office of Environmental Compliance, Emergency and Radiological Services Division.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2579 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2530 (October 2005).

Subchapter K. Additional Requirements

§496. Vacating Premises

A. Each specific licensee or registrant shall, no less than 30 days before vacating or relinquishing possession or control of premises that may have been contaminated with radioactive material as a result of his activities, notify the Office of Environmental Compliance, Emergency and Radiological Services Division, in writing of intent to vacate. When deemed necessary by the department, the licensee shall decontaminate the premises in such a manner as the department may specify.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2580 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2530 (October 2005).

Subchapter Z. Appendices

§499. Appendices A, B, C, D, E

Appendix A. - Appendix C, Footnote [1]. …

Appendix D

Requirements for Transfer of Low-Level Radioactive Waste for Disposal at Land Disposal Facilities and Manifests

A. - H.2.g. …

h. notify the shipper and the Office of Environmental Compliance, Emergency and Radiological Services Division, when any shipment, or part of a shipment, has not arrived within 60 days after receipt of an advance manifest, unless notified by the shipper that the shipment has been canceled.

3. - 3.j. …

k. notify the shipper and the Office of Environmental Compliance, Emergency and Radiological Services Division, when any shipment, or part of a shipment, has not arrived within 60 days after receipt of an advance manifest, unless notified by the shipper that the shipment has been canceled.

4. - 4.b.…

c. notify the shipper and the Office of Environmental Compliance, Emergency and Radiological Services Division, when any shipment, or part of a shipment, has not arrived within 60 days after receipt of an advance manifest, unless notified by the shipper that the shipment has been canceled.

5. - 5.a.…

b. be traced and reported. The investigation shall include tracing the shipment and filing a report with the Office of Environmental Compliance, Emergency and Radiological Services Division. Each licensee who conducts a trace investigation shall file a written report with the Office of Environmental Compliance, Emergency and Radiological Services Division, within two weeks of completion of the investigation.

Appendix E. - Appendix E, Footnote[1]. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2104.

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

(October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), LR 20:653 (June 1994), LR 22:973 (October 1996), LR 24:2096 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:1012 (May 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 31:0000 (October 2005).48 (January 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2530 (October 2005).

Chapter 5. Radiation Safety Requirements for Industrial Radiographic Operations

Subchapter B. Personal Radiation Safety Requirements for Radiographers

§575. Training and Testing

A. - A.2.c. …

d. The current Form DRC-20, available from the department or the department's website, must be submitted to the Office of Environmental Compliance, Emergency and Radiological Services Division, documenting the on-the-job training.

A.3. - B.5. …

6. The current Form DRC-20, available from the department or the department's website, must be submitted to the Office of Environmental Compliance, Emergency and Radiological Services Division, documenting the on-the-job training, instruction in the subjects outlined in Appendix A in this Chapter, and successful completion of a company-specific written examination.

B.7. - E. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), LR 20:999 (September 1994), LR 23:1138 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2583 (November 2000), LR 27:1235 (August 2001), LR 28:1951 (September 2002), LR 29:34 (January 2003), LR 29:1470 (August 2003), amended by the Office of Environmental Assessment, LR 30:2029 (September 2004), LR 31:54 (January 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2531 (October 2005).

§577. Personnel Monitoring Control

A. - C. …

D. Direct reading dosimeters, such as electronic personal dosimeters or pocket dosimeters, shall be read and exposures recorded at least daily with use at the beginning and end of each shift, and records must be maintained for three years or until the Office of Environmental Compliance, Emergency and Radiological Services Division, authorizes their disposition.

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

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

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

H. - H.4. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2583 (November 2000), LR 27:1235 (August 2001), LR 28:1951 (September 2002), LR 29:35 (January 2003), LR 29:1470 (August 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2531 (October 2005).

§578. Reciprocity

A. - A.2. …

3. the applicant presents the certification to the Office of Environmental Compliance, Emergency and Radiological Services Division, prior to entry into Louisiana; and

A.4. - B. …

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 20:1000 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2583 (November 2000), LR 29:35 (January 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2531 (October 2005).

§579. Identification (I.D.) Cards for Radiographers or Radiographer Trainees

A. - A.3. …

4. Any individual who wishes to replace his/her I.D. card shall submit to the Office of Environmental Compliance, Emergency and Radiological Services Division, a written request for a replacement I.D. card, stating the reason a replacement I.D. card is needed. A non-refundable fee of $26 shall be paid to the department for each replacement of an I.D. card. The prescribed fee shall be submitted with the written request for a replacement I.D. card. The individual shall maintain a copy of the request in his/her possession while performing industrial radiographic operations until a replacement I.D. card is received from the department.

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 Air Quality and Radiation Protection, Radiation Protection Division, LR 20:1000 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2584 (November 2000), LR 29:36 (January 2003), LR 29:691 (May 2003), LR 29:2053 (October 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2531 (October 2005).

Chapter 6. X-Rays in the Healing Arts

§603. General and Administrative Requirements

A. - A.10.c. …

11. Any person proposing to conduct a healing arts screening program shall not initiate such a program without prior approval of the department. When requesting such approval, that person shall submit the information outlined in LAC 33:XV.699.Appendix C to the Office of Environmental Compliance, Emergency and Radiological Services Division. If any information submitted to the department becomes invalid or outdated, the Office of Environmental Compliance, Emergency and Radiological Services Division, shall be immediately notified. See the definition of *healing arts screening* as defined in LAC 33:XV.602.

A.12. - B.3.g. …

C. Plans Review

1. Except for dedicated mammography radiographic systems, podiatric radiographic systems, panoramic dental radiographic systems, and intraoral dental radiographic systems, prior to construction, the floor plans and equipment arrangement of all new installations, or modifications of existing installations, utilizing X-rays for diagnostic or therapeutic purposes shall be submitted to the Office of Environmental Compliance, Emergency and Radiological Services Division, for review and approval. The required information is specified in LAC 33:XV.699.Appendices A and B.

2. - 4. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), LR 22:976 (October 1996), LR 23:1139 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2585 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2532 (October 2005).

§608. Therapeutic X-Ray Systems of Less Than 1 MeV

A. - C.1.a. …

b. the registrant or licensee shall obtain a written report of the survey from the qualified expert, and a copy of the report shall be transmitted by the registrant or licensee to the Office of Environmental Compliance, Emergency and Radiological Services Division, within 30 calendar days of receipt of the report; and

1.c. - 3. …

a. the spot-check procedures shall be in writing and shall have been developed by a qualified expert. A copy of the procedures shall be submitted to the Office of Environmental Compliance, Emergency and Radiological Services Division, prior to their implementation;

3.b. - 4.e. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2586 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2532 (October 2005).

§609. X-Ray and Electron Therapy Systems with Energies of 1 MeV and Above

A. - E.1.a. …

b. the registrant or licensee shall obtain a written report of the survey from the qualified expert, and a copy of the report shall be transmitted by the registrant or licensee to the Office of Environmental Compliance, Emergency and Radiological Services Division, within 30 days of receipt of the report; and

1.c. - 2. …

a. the calibration of systems subject to this Section shall be performed in accordance with an established calibration protocol acceptable to the department before the system is first used for irradiation of a patient and thereafter at intervals that do not exceed 12 months, and after any change that might significantly alter the calibration, spatial distribution, or other characteristics of the therapy beam. The calibration protocol published by the American Association of Physicists in Medicine is accepted as an established protocol. For other protocols, the user shall submit that protocol to the Office of Environmental Compliance, Emergency and Radiological Services Division, for written concurrence that the protocol is acceptable;

2.b. - 3. …

a. the spot-check procedures shall be in writing and shall have been developed by a radiological physicist. A copy of the procedure shall be submitted to the Office of Environmental Compliance, Emergency and Radiological Services Division, prior to its implementation;

3.b. - 4.c. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2586 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2532 (October 2005).

Chapter 7. Use of Radionuclides in the Healing Arts

§704. Notifications

A. A licensee shall provide to the Office of Environmental Compliance, Emergency and Radiological Services Division, a copy of the board certification, the Nuclear Regulatory Commission or agreement state license, or the permit issued by a licensee of broad scope for each individual no later than 30 days after the date that the licensee permits the individual to work as an authorized user, an authorized nuclear pharmacist, or an authorized medical physicist in accordance with LAC 33:XV.703.A.2.

B. A licensee shall notify the Office of Environmental Compliance, Emergency and Radiological Services Division, by letter no later than 30 days after:

1. - 2. …

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 24:2101 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2587 (November 2000), LR 30:1173 (June 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:0000 (October 2005).1061 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2532 (October 2005).

§719. Requirements for Possession of Sealed Sources and Brachytherapy Sources

A. - E.1. …

2. file a written report with the Office of Environmental Compliance, Emergency and Radiological Services Division, within five days of receiving the leak test results describing the equipment involved, the test results, and the action taken.

F. - O. …

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 by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2589 (November 2000), LR 30:1176 (June 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2533 (October 2005).

§737. Safety Precautions

A. - A.6. …

7. submit to the Office of Environmental Compliance, Emergency and Radiological Services Division, an acceptable procedure to measure the thyroid burden of each individual who helps prepare or administer a dosage of iodine-131. Measurements shall be performed within three days after administering the dosage, and records shall include each thyroid burden measurement, date of measurement, the name of the individual whose thyroid burden was measured, and the initials of the individual who made the measurements. The records shall be retained for the period required by LAC 33:XV.472.B.

B. …

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 24:2105 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2589 (November 2000), LR 30:1178 (June 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2533 (October 2005).

§761. Reports of Teletherapy Surveys, Checks, Tests, and Measurements

A. A licensee shall furnish a copy of the records required in LAC 33:XV.758, 759, and 760, and the output from the teletherapy source expressed as rems (sieverts) per hour at 1 meter from the source as determined during the full calibration required in LAC 33:XV.756 to the Office of Environmental Compliance, Emergency and Radiological Services Division, within 30 days following completion of the action that initiated the record requirement.

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 by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2590 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2533 (October 2005).

Chapter 8. Radiation Safety Requirements for Analytical X-Ray Equipment

§803. Equipment Requirements

A. Safety Device. A device which prevents the entry of any portion of an individual's body into the primary X-ray beam path or which causes the beam to be shut off upon entry into its path shall be provided on all open-beam configurations. A registrant or licensee may apply to the Office of Environmental Compliance, Emergency and Radiological Services Division, for an exemption from the requirement of a safety device. Such application shall include:

A.1. - H. …

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 Environmental Assessment, Environmental Planning Division, LR 26:2591 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2533 (October 2005).

Chapter 9. Radiation Safety Requirements for Particle Accelerators

Subchapter B. Radiation Safety Requirements for the Use of Particle Accelerators

§907. Shielding and Safety Design Requirements

A. A qualified expert, specifically accepted in writing by the department, shall be consulted in the design of a particle accelerator installation and shall be called upon to perform a radiation survey when the accelerator is first capable of producing radiation. A copy of the survey shall be submitted to the Office of Environmental Compliance, Emergency and Radiological Services Division.

B. Plans for construction of new accelerator installations shall be submitted to the Office of Environmental Compliance, Emergency and Radiological Services Division, for approval prior to commencement of construction.

C. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2592 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2533 (October 2005).

§911. Radiation Monitoring Requirements

A. …

B. A radiation protection survey shall be performed, documented, and submitted to the Office of Environmental

Compliance, Emergency and Radiological Services Division, by a qualified expert specifically approved in writing by the department when changes have been made in shielding, operation, equipment, or occupancy of adjacent areas.

C. - H. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2592 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2533 (October 2005).

Chapter 10. Notices, Instructions, and Reports to Workers; Inspections

§1016. Requests by Workers for Inspections

A. Any worker or representative of workers believing that a violation of the act, LAC 33:Part XV, or license conditions exists or has occurred in work under a license or registration with regard to radiological working conditions in which the worker is engaged may request an inspection by giving notice of the alleged violation to the Office of Environmental Compliance, Emergency and Radiological Services Division. Any such notice shall be in writing, shall set forth the specific grounds for the notice, and shall be signed by the worker or representative of the workers. A copy shall be provided to the licensee or registrant by the department no later than at the time of inspection except that, upon the request of the worker giving such notice, such worker's name and the names of individuals referred to therein shall not appear in such copy or on any record published, released, or made available by the department, except for good cause shown.

B. - C. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2593 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2534 (October 2005).

§1017. Inspections Not Warranted: Informal Review

A. Notification to Complainant and Informal Review

1. If the department determines, with respect to a complaint filed under LAC 33:XV.1016, that an inspection is not warranted because there are no reasonable grounds to believe that a violation exists, is occurring, or has occurred, the department shall notify the complainant in writing of such determination. The complainant may obtain review of such determination by submitting a written statement of position with the administrative authority, who will provide the licensee or registrant with a copy of such statement by certified mail, return receipt requested, excluding, at the request of the complainant, the name of the complainant. The licensee or registrant may submit an opposing written statement of position with the Office of Environmental Compliance, Emergency and Radiological Services Division, that will provide the complainant with a copy of such statement by certified mail, return receipt requested.

A.2. - B. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2594 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2534 (October 2005).

Chapter 11. Radiation Safety Requirements for Radioactive Mineral Tailings and Industrial By-Product Piles

§1103. Sale or Transfer of the Site

A. The Office of Environmental Compliance, Emergency and Radiological Services Division, shall be given written notice 30 days in advance of any contemplated transfer of right, title or interest in the site by deed, lease or other conveyance. The written notice shall contain the name and address of the proposed purchaser or transferee.

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 Environmental Assessment, Environmental Planning Division, LR 26:2594 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2534 (October 2005).

§1104. Abandonment of the Site

Prior to abandonment of the site, the requirements of this Section shall be fulfilled.

A. - C. …

D. Detailed plans for compliance with Subsections A, B, and C of this Section shall be submitted to the Office of Environmental Compliance, Emergency and Radiological Services Division, for review and approval.

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 Environmental Assessment, Environmental Planning Division, LR 26:2594 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2534 (October 2005).

Chapter 13. Licensing Requirements for Land Disposal of Radioactive Waste

Subchapter A. General Provisions

§1303. License Required

A. …

B. Each person shall file an application with the Office of Environmental Compliance, Emergency and Radiological Services Division, pursuant to LAC 33:XV.324 of these regulations and obtain a license as provided in this Chapter before commencement of construction of a land disposal facility. Failure to comply with this requirement may be grounds for denial of a license.

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 Environmental Assessment, Environmental Planning Division, LR 26:2595

(November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2534 (October 2005).

§1309. Institutional Information

The institutional information submitted to the Office of Environmental Compliance, Emergency and Radiological Services Division, by the applicant shall include:

A. - B. …

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 Environmental Assessment, Environmental Planning Division, LR 26:2595 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2535 (October 2005).

§1314. Contents of Application for Site Closure and Stabilization

A. Prior to final closure of the disposal site, or as otherwise directed by the department, the applicant shall submit an application to the Office of Environmental Compliance, Emergency and Radiological Services Division, to amend the license for closure. This closure application shall include a final revision and specific details of the disposal site closure plan included as part of the license application submitted under LAC 33:XV.1307.G that includes each of the following:

A.1. - B. …

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 Environmental Assessment, Environmental Planning Division, LR 26:2596 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2535 (October 2005).

Subchapter C. Technical Requirements for Land Disposal Facilities

§1325. Land Disposal Facility Operation and Disposal Site Closure

A. - A.11. …

12. Proposals for disposal of waste that is not generally acceptable for near-surface disposal because the waste form and disposal methods must be different and, in general, more stringent than those specified for Class C waste, may be submitted to the Office of Environmental Compliance, Emergency and Radiological Services Division, for approval.

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 Environmental Assessment, Environmental Planning Division, LR 26:2596 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2535 (October 2005).

Subchapter D. Financial Assurances

§1331. Funding for Disposal Site Closure and Stabilization

A. - B. …

C. The licensee's financial or surety arrangement shall be submitted annually for review by the Office of Environmental Compliance, Emergency and Radiological Services Division, to ensure that sufficient funds will be available for completion of the closure plan.

D. …

E. The financial or surety arrangement shall be written for a specified period of time and shall be automatically renewed unless the person who issues the surety notified the Office of Environmental Compliance, Emergency and Radiological Services Division, the beneficiary [the site owner], and the principal [the licensee] not less than 90 days prior to the renewal date of its intention not to renew. In such a situation, the licensee must submit a replacement surety within 30 days after notification of cancellation. If the licensee fails to provide a replacement surety acceptable to the department, the beneficiary may collect on the original surety.

F. - H. …

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 Environmental Assessment, Environmental Planning Division, LR 26:2597 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2535 (October 2005).

§1332. Financial Assurances for Institutional Controls

A. Prior to the issuance of the license, the applicant shall provide for Office of Environmental Compliance, Emergency and Radiological Services Division approval, a binding arrangement between the applicant and the disposal site owner that ensures that sufficient funds will be available to cover the costs of monitoring and any required maintenance during the institutional control period. The binding arrangement shall be reviewed annually by the department to ensure that changes in inflation, technology, and disposal facility operations are reflected in the arrangements.

B. Subsequent changes to the binding arrangement specified in Subsection A of this Section relevant to institutional control shall be submitted to the Office of Environmental Compliance, Emergency and Radiological Services Division, for prior approval.

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 Environmental Assessment, Environmental Planning Division, LR 26:2597 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2535 (October 2005).

Subchapter E. Records, Reports, Tests, and Inspections

§1333. Maintenance of Records, Reports, and Transfers

A. - E. …

F. Each licensee authorized to dispose of waste received from other persons shall file a copy of its financial report or a certified financial statement annually with the Office of Environmental Compliance, Emergency and Radiological Services Division, in order to update the information base for determining financial qualifications.

G. Each licensee authorized to dispose of waste received from other persons, in accordance with this Chapter, shall submit annual reports to the Office of Environmental Compliance, Emergency and Radiological Services Division. Reports shall be submitted by the end of the first calendar quarter of each year for the preceding year.

G.1. - J.2. …

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 24:2111 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2598 (November 2000), LR 27:1238 (August 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2535 (October 2005).

Chapter 14. Regulation and Licensing of Naturally Occurring Radioactive Material (NORM)

§1407. Surveys

A. - B. …

C. Upon completion of survey(s) of equipment and facilities that verify that NORM regulated by this Chapter is not present, an individual may submit documentation to the Office of Environmental Compliance, Emergency and Radiological Services Division, indicating that the equipment and facilities are exempt from the requirements of this Chapter pursuant to LAC 33:XV.1404.

D. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 21:26 (January 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2599 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2536 (October 2005).

§1408. General License

A. …

1. Persons subject to the general license shall notify the Office of Environmental Compliance, Emergency and Radiological Services Division, by filing the Notification of NORM Form (Form RPD-36) with the department.

2. A confirmatory survey showing the presence of NORM in excess of exempt levels provided in LAC 33:XV.1404 shall be submitted to the Office of Environmental Compliance, Emergency and Radiological Services Division.

3. Each general licensee performing on-site maintenance on contaminated facilities, sites, or equipment or the excavation of land shall establish and submit to the Office of Environmental Compliance, Emergency and Radiological Services Division, for approval written procedures as outlined in LAC 33:XV.1499.Appendix B to ensure worker protection and for the survey (or screening) of sites and equipment.

4. …

5. Each general licensee shall establish and submit to the Office of Environmental Compliance, Emergency and Radiological Services Division, for approval written procedures for the survey (or screening) of sites and equipment to ensure that NORM is not released for unrestricted use except under the provisions of LAC 33:XV.1417.

6. - 6.a. …

b. To store NORM waste in a container for up to 365 days from generation, a general licensee must first submit a written NORM waste management plan to the Office of Environmental Compliance, Emergency and Radiological Services Division, and receive authorization from the department. The general licensee may store NORM waste in containers up to 365 days from generation under the written NORM waste management plan while waiting for department determination.

A.7. - E. …

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 21:26 (January 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2599 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2536 (October 2005).

§1410. General Licenses: Pipe Yards, Storage Yards, or Production Equipment Yards

A. - A.1. …

2. a program is developed and submitted to the Office of Environmental Compliance, Emergency and Radiological Services Division, for approval to screen incoming shipments to ensure that the 50-microroentgens-per-hour limit is not exceeded for individual pieces of tubular goods or equipment;

3. a program is developed and submitted to the Office of Environmental Compliance, Emergency and Radiological Services Division, for approval to ensure worker protection, as outlined in LAC 33:XV.1499.Appendix B;

4. a program is developed and submitted to the Office of Environmental Compliance, Emergency and Radiological Services Division, for approval to control soil contamination;

5. a program is developed and submitted to the Office of Environmental Compliance, Emergency and Radiological Services Division, for approval to prevent release of NORM contamination beyond the site boundary;

6. a program is developed and submitted to the Office of Environmental Compliance, Emergency and Radiological Services Division, for approval for surveying and decontamination to ensure that soil contamination is not allowed to exceed 200 picocuries per gram of radium-226 or radium-228 or an exposure rate of 50 microroentgens per hour at one meter from the soil at any time;

7. a plan for cleanup is submitted to the Office of Environmental Compliance, Emergency and Radiological Services Division, within 180 days of the discovery of NORM contaminated soil in excess of the limit in Paragraph A.6 of this Section. The plan shall include a schedule for cleanup that is to be approved by the department. The general licensee may include in this plan an application to the department for a one time authorization to perform this cleanup or use a specific licensee; and

A.8. - B. …

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 Nuclear Energy, Nuclear Energy Division, LR 15:736 (September 1989), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:605 (June 1992), LR 21:26 (January 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2599 (November 2000), LR 30:1189 (June 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2536 (October 2005).

§1417. Release for Unrestricted Use

A. - A.3. …

B. If closure activities involve construction with a subsurface impact to a depth greater than three feet, prior approval by the Office of Environmental Compliance, Emergency and Radiological Services Division, must be attached as part of the application addressing the certification of the groundwater quality. All pits, ponds, and lagoons must comply with departmental regulations and/or policies dealing with groundwater quality.

C. Unless otherwise directed in writing by the department, in order to release property for unrestricted use, a licensee shall submit a plan for the decontamination to the Office of Environmental Compliance, Emergency and Radiological Services Division, for approval. Upon approval, the licensee shall implement the plan in accordance with such approval.

C.1. - E. …

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 18:607 (June 1992), amended LR 21:28 (January 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2600 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2537 (October 2005).

§1418. NORM Manifests

A. - C.6. …

7. The licensee receiving a shipment is required to report to the Office of Environmental Compliance, Emergency and Radiological Services Division, and to the licensee initiating the shipment any irregularities between the NORM actually received by the designated facility and the NORM described on the manifest, or any other irregularities, within 15 days. If the designated facility or receiving licensee is outside the state of Louisiana, the generating or originating licensee must report the irregularities to the department.

D. - E.3. …

a. notify the Office of Environmental Compliance, Emergency and Radiological Services Division, in writing within seven days;

b. …

c. report the results of the investigation to the Office of Environmental Compliance, Emergency and Radiological Services Division.

F. - G. …

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 18:608 (June 1992), amended LR 21:28 (January 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2600 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2537 (October 2005).

§1420. Financial Security Requirements for NORM Treaters or Storers

A. - B. …

C. On the effective date of these rules, current licenses in effect may continue, provided that the required security arrangements are submitted to the Office of Environmental Compliance, Emergency and Radiological Services Division, within 120 days.

D. - E. …

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 18:609 (June 1992), amended LR 21:30 (January 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2601 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2537 (October 2005).

Chapter 15. Transportation of Radioactive Material

§1515. Reports

A. The licensee shall report to the Office of Environmental Compliance, Emergency and Radiological Services Division, within 30 days:

1. - 3. …

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 Environmental Assessment, Environmental Planning Division, LR 26:1269 (June 2000), LR 26:2602 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2537 (October 2005).

§1516. Advance Notification of Transport of Nuclear Waste

A. - C.6. …

D. The notification required by LAC 33:XV.1516.A shall be made in writing to the office of each appropriate governor or governor's designee and to the Office of Environmental Compliance, Emergency and Radiological Services Division. A notification delivered by mail must be postmarked at least seven days before the beginning of the seven-day period during which departure of the shipment is estimated to occur. A notification delivered by messenger must reach the office of the governor, or governor's designee, at least four days before the beginning of the seven-day period during which departure of the shipment is estimated to occur. A copy of the notification shall be retained by the licensee for three years.

E. The licensee shall notify each appropriate governor, or governor's designee, and the Office of Environmental Compliance, Emergency and Radiological Services Division, of any changes to schedule information provided in accordance with Subsection A of this Section. Such notification shall be by telephone to a responsible individual in the office of the governor, or governor's designee, of the appropriate state or states. The licensee shall maintain for three years a record of the name of the individual contacted.

F. Each licensee who cancels a nuclear waste shipment, for which advance notification has been sent, shall send a cancellation notice to the governor, or governor's designee, of each appropriate state and to the Office of Environmental Compliance, Emergency and Radiological Services Division. A copy of the notice shall be retained by the licensee for three years.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1270 (June

2000), LR 26:2602 (November 2000), amended by the Office of Environmental Assessment, LR 30:2029 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2537 (October 2005).

Chapter 17. Licensing and Radiation Safety Requirements for Irradiators

§1707. Start of Construction

A. An applicant for a license shall not begin construction of a new irradiator prior to the submission to the Office of Environmental Compliance, Emergency and Radiological Services Division, of both an application for a license for the irradiator and any fee required by the applicable state requirement or statute. As used in this Chapter, the term *construction* includes the construction of any portion of the permanent irradiator structure on the site but does not include engineering and design work, purchase of a site, site surveys or soil testing, site preparation, site excavation, construction of warehouse or auxiliary structures, and other similar tasks. Any activities undertaken prior to the issuance of a license are entirely at the risk of the applicant and have no bearing on the issuance of a license with respect to the requirements of the appropriate state statute, rules, regulations, and orders issued under the appropriate state statute.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 24:2113 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2603 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2538 (October 2005).

§1711. Request for Written Statements

A. Each license is issued with the condition that the licensee shall, at any time before expiration of the license and upon the department's request, submit a written statement to the Office of Environmental Compliance, Emergency and Radiological Services Division, to enable the department to determine whether the license should be modified, suspended, or revoked.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 24:2113 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2603 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2538 (October 2005).

§1755. Records and Retention Periods

A. - A.2. …

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

A.4. - B. …

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

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

3. - 5. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 24:2120 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2604 (November 2000), LR 29:1471 (August 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2538 (October 2005).

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

§2014. Leak Testing of Sealed Sources

A. …

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

C. - E.5. …

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), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2604 (November 2000), LR 29:1471 (August 2003), LR 30:1667 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2538 (October 2005).

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

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

A.1. - B. …

C. Each sealed source, except those containing radioactive material in gaseous form, used in downhole

operations after October 20, 1988, shall be certified by the manufacturer, or other testing organization acceptable to the Office of Environmental Compliance, Emergency and Radiological Services Division, as meeting the sealed source performance requirements for oil well-logging as contained in the American National Standard N542, "Sealed Radioactive Sources, Classification," in effect on October 20, 1987.

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

E. - E.2. …

3. The requirements in Subparagraphs E.1.a-c of this Section do not apply to energy compensation sources (ECSs). ECSs must be registered with the U.S. Nuclear Regulatory Commission, an agreement state, or the Office of Environmental Compliance, Emergency and Radiological Services Division.

F. - G.2. …

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

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2605 (November 2000), LR 29:1472 (August 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:0000 (October 2005).55 (January 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2538 (October 2005).

Subchapter A. Requirements for Personnel Safety

§2022. Personnel Monitoring

A. …

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

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2605 (November 2000), LR 29:1472 (August 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2539 (October 2005).

Chapter 25. Fee Schedule

§2506. Reciprocal AgreementsCLicenses and Registrants

A. Persons operating within Louisiana under the provisions of LAC 33:XV.212 or LAC 33:XV.390 shall submit to the Office of Environmental Compliance, Emergency and Radiological Services Division, the annual fee of the applicable category before the first entry into the state. The fee will allow reciprocal recognition of the license or registration for one year from the date of receipt.

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 18:718 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2607 (November 2000), LR 29:1816 (September 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2539 (October 2005).

§2507. Reimbursements

A. One-half of the annual fee will be reimbursed to the licensee or registrant upon receipt of a written request to terminate the license or registration, provided that the request has been received by the Office of Environmental Compliance, Emergency and Radiological Services Division, within 180 days after the annual fee due date, and the fee has not been delinquent. Requests for termination of the license or registration received after 180 days of the annual fee due date will not entitle the licensee or registrant to reimbursement of any portion of the annual fee. No interest, legal or otherwise, will be paid on the funds withheld prior to reimbursement.

B. …

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 18:718 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2607 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2539 (October 2005).

§2508. Determination of Fee

A. - C. …

D. Electronic products that are in storage are subject to the same initial application fee and annual maintenance fee unless the X-ray unit is rendered permanently incapable of producing radiation and this fact is documented in writing to the Office of Environmental Compliance, Emergency and Radiological Services Division.

E. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:718

(July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1441 (July 2000), LR 26:2607 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2539 (October 2005).

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0507#028

RULE

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

RCRA XIV Package
(LAC 33:V.108, 1717, 4003, and 4561)(HW087ft)

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.108, 1717, 4003, and 4561 (Log #HW087ft).

This Rule is identical to federal regulations found in 40 CFR 261.5(j), 262.34(j)-(k)(1), 264.1050(g)-(h), 279.10(i), and 279.74(b)-(b)(4), July 1, 2004, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3550 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the rule; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This rule will promulgate the RCRA XIV cluster for equivalency with EPA standards. The rule clarifies certain aspects of used oil management standards. It clarifies when used oil contaminated with PCBs is regulated under RCRA used oil management standards. It explains that used oil mixed with conditionally exempt small quantity generators (CESQG) waste is subject to RCRA used oil management standards irrespective of how this mixture is to be recycled. It explains that the initial marketer of on-specification used oil must keep a record of the shipment of used oil to the facility to which the initial marketer delivers the used oil. In addition, this rule covers national emission standards for hazardous air pollutants (NESHAP) for automobile and light-duty truck surface coating operations at major sources of hazardous air pollutants (HAP). These operations are required to meet HAP emission standards reflecting the application of the maximum achievable control technology. The rule also amends RCRA air emission standards for owners and operators of treatment, storage, and disposal facilities (TSDFs) to exempt air emissions from certain activities that are covered by the final NESHAP. The basis and rationale for this Rule are to mirror the federal regulations.

This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33
ENVIRONMENTAL QUALITY
Part V. Hazardous Waste and Hazardous Materials
Subpart 1. Department of Environmental QualityCHazardous Waste

Chapter 1. General Provisions and Definitions

§108. Special Requirements for Hazardous Waste Generated by Conditionally Exempt Small Quantity Generators

A. - I. …

J. If a conditionally exempt small quantity generator's wastes are mixed with used oil, the mixture is subject to LAC 33:V.Chapter 40. Any material produced from such a mixture by processing, blending, or other treatment is also subject to LAC 33:V.Chapter 40.

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 27:706, 716 (May 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2540 (October 2005).

Chapter 17. Air Emission Standards

Subchapter B. Equipment Leaks

§1717. Applicability

A. - F. …

G. Purged coatings and solvents from surface coating operations subject to the national emission standards for hazardous air pollutants (NESHAP) for the surface coating of automobiles and light-duty trucks at LAC 33:III.5122 (40 CFR Part 63, Subpart IIII), are not subject to the requirements of this Subchapter.

[NOTE: The requirements of this Subchapter apply to equipment associated with hazardous waste recycling units previously exempt under LAC 33:V.4115.A. Other exemptions under LAC 33:V.105.D and 1501.C are not affected by these requirements.]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 17:658 (July 1991), amended LR 20:1000 (September 1994), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1700 (September 1998), LR 25:438 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:294 (March 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2540 (October 2005).

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. - H. …

I. Used Oil Containing PCBs. Used oil containing PCBs (as defined at 40 CFR 761.3) at any concentration less than 50 ppm is subject to the requirements of this Subchapter unless, because of dilution, it is regulated under 40 CFR Part 761 as a used oil containing PCBs at 50 ppm or greater.

PCB-containing used oil subject to the requirements of this Subchapter may also be subject to the prohibitions and requirements found at 40 CFR Part 761, including Sections 761.20(d) and (e). Used oil containing PCBs at concentrations of 50 ppm or greater is not subject to the requirements of this Subchapter, but is subject to regulation under 40 CFR Part 761. No person may avoid these provisions by diluting used oil containing PCBs, unless otherwise specifically provided for in this Subchapter or 40 CFR Part 761.

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).

Chapter 43. Interim Status

Subchapter R. Air Emission Standards for Equipment Leaks

§4561. Applicability

A. - E. …

F. Purged coatings and solvents from surface coating operations subject to the national emission standards for hazardous air pollutants (NESHAP) for the surface coating of automobiles and light-duty trucks at LAC 33:III.5122 (40 CFR Part 63, Subpart IIII), are not subject to the requirements of this Subchapter.

[NOTE: The requirements of LAC 33:V.4565-4589 apply to equipment associated with hazardous waste recycling units previously exempt under LAC 33:V.4115.A. Other exemptions under LAC 33:V.105.D and 4307 are not affected by these requirements.]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 17:658 (July 1991), amended LR 20:1000 (September 1994), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1745 (September 1998), LR 25:486 (March 1999), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2541 (October 2005).

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0510#029

RULE

Department of Insurance
Office of the Commissioner

Regulation Number 84C2001 CSO Mortality Table
(LAC 37:XIII.Chapter 107)

Under the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Commissioner of the Louisiana Department of Insurance hereby promulgates its Regulation 84. The purpose of this regulation is to recognize, approve, permit and prescribe the use of the 2001 Commissioners Standard Ordinary Mortality Table (CSO) as authorized by R.S. 22:163.B(1)(a) in determining the minimum valuation standard and R.S. 22:168.G(8)(f) in determining the minimum nonforfeiture standard. This table will not apply to industrial insurers as defined in R.S. 22:251.

Title 37
INSURANCE
Part XIII. Regulations

Chapter 107. Regulation Number 84CRecognition and Use of the 2001 CSO Mortality Table in Determining Minimum Reserve Liabilities and Nonforfeiture Benefits

§10701. Authority

A. This regulation is promulgated by the Commissioner of Insurance pursuant to authority granted under the Louisiana Insurance Code, Title 22, §22:1 et seq., particularly the Standard Valuation Law, see Title 22, §163.B(1)(a) and the Standard Nonforfeiture Law for Life Insurance, see Title 22 §168.G(8)(f).

AUTHORITY NOTE: Promulgated in accordance with R.S.22:3, 22:163, 22:168 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:2541 (October 2005).

§10703. Purpose

A. The purpose of this regulation is to recognize, permit and prescribe the use of the 2001 Commissioners Standard Ordinary (CSO) Mortality Table in accordance with R.S. 22:163.B(1)(a) (the Standard Valuation Law for Life Insurance), R.S. 22:168.G(8)(f) (the Standard Nonforfeiture Law for Life Insurance) and Sections 10909.A and Sections 10909.B of Regulation 85.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:3, 22:163, 22:168 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:2541 (October 2005).

§10705. Definitions

*2001 CSO Mortality Table*Cthat mortality table, consisting of separate rates of mortality for male and female lives, developed by the American Academy of Actuaries CSO Task Force from the Valuation Basic Mortality Table developed by the Society of Actuaries Individual Life Insurance Valuation Mortality Task Force, and adopted by the NAIC in December 2002. The 2001 CSO Mortality Table is included in the *Proceedings of the NAIC (2nd Quarter 2002)*. Unless the context indicates otherwise, the "2001 CSO Mortality Table" includes both the ultimate form of that table and the select and ultimate form of that table and includes both the smoker and nonsmoker mortality tables and the composite mortality tables. It also includes both the age-nearest-birthday and age-last-birthday bases of the mortality tables.

*2001 CSO Mortality Table (F)*Cthat mortality table consisting of the rates of mortality for female lives from the 2001 CSO Mortality Table.

*2001 CSO Mortality Table (M)*Cthat mortality table consisting of the rates of mortality for male lives from the 2001 CSO Mortality Table.

*Composite Mortality Tables*Cmortality tables with rates of mortality that do not distinguish between smokers and nonsmokers.

*Smoker and Nonsmoker Mortality Tables*Cmortality tables with separate rates of mortality for smokers and nonsmokers.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:3, 22:163, 22:168 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:2541 (October 2005).

§10707. 2001 CSO Mortality Table

A. At the election of the company for any one or more specified plans of insurance and subject to the conditions stated in this regulation, the 2001 CSO Mortality Table may be used as the minimum standard for policies issued on or after January 1, 2005 and before the date specified in Subsection B to which R.S. 22:163.B(1)(a), R.S. 22:168.G(8)(f) and Sections 10909.A and B of Regulation 85 are applicable. If the company elects to use the 2001 CSO Mortality Table, it shall do so for both valuation and nonforfeiture purposes. Notwithstanding the preceding, the commissioner may specify restrictions on the use of this table for certain categories of life insurance for which the use of this table's mortality assumption is not representative of the business' underlying mortality experience.

B. Subject to the conditions stated in this regulation, the 2001 CSO Mortality Table shall be used in determining minimum standards for policies issued on and after January 1, 2009, to which R.S. 22:163.B(1)(a), R.S. 22:168.G(8)(f) and Sections 10909.A and B of Regulation 85 are applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:3, 22:163, 22:168 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:2542 (October 2005).

§10709. Conditions

A. For each plan of insurance with separate rates for smokers and nonsmokers an insurer may use:

1. composite mortality tables to determine minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits;

2. smoker and nonsmoker mortality tables to determine the valuation net premiums and additional minimum reserves, if any, required by R.S. 22:163.B(8)(a) and use composite mortality tables to determine the basic minimum reserves, minimum cash surrender values and amounts of paid-up nonforfeiture benefits; or

3. smoker and nonsmoker mortality to determine minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits.

B. For plans of insurance without separate rates for smokers and nonsmokers the composite mortality tables shall be used.

C. For the purpose of determining minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits, the 2001 CSO Mortality Table may, at the option of the company for each plan of insurance, be used in its ultimate or select and ultimate form, subject to the restrictions of Section 10911 of Regulation 85 relative to use of the select and ultimate form.

D. When the 2001 CSO Mortality Table is the minimum reserve standard for any plan for a company, the actuarial opinion in the annual statement filed with the commissioner shall be based on an asset adequacy analysis as specified in §2109.A.1 of Regulation 47 of the Louisiana Insurance Regulations. A commissioner may exempt a company from this requirement if it only does business in this state and in no other state.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:3, 22:163, 22:168 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:2542 (October 2005).

§10711. Applicability of the 2001 CSO Mortality Table to Regulation 85

A. The 2001 CSO Mortality Table may be used in applying Regulation 85 in the following manner, subject to the transition dates for use of the 2001 CSO Mortality Table in §10707 of this Regulation.

1. Section 10905.A.(2).(b): The net level reserve premium is based on the ultimate mortality rates in the 2001 CSO Mortality Table.

2. Section 10907: All calculations are made using the 2001 CSO Mortality Rate, and, if elected, the optional minimum mortality standard for deficiency reserves stipulated in §10909.B of this Regulation. The value of "$q_{x+k+t-1}$" is the valuation mortality rate for deficiency reserves in policy year k+t, but using the unmodified select mortality rates if modified select mortality rates are used in the computation of deficiency reserves.

3. Section 10909.A: The 2001 CSO Mortality Table is the minimum standard for basic reserves.

4. Section 10909.B: The 2001 CSO Mortality Table is the minimum standard for deficiency reserves. If select mortality rates are used, they may be multiplied by X percent for durations in the first segment, subject to the conditions specified in Sections 10909.B.3.a. through i. In demonstrating compliance with those conditions, the demonstrations may not combine the results of tests that utilize the 1980 CSO Mortality Table with those tests that utilize the 2001 CSO Mortality Table, unless the combination is explicitly required by regulation or necessary to be in compliance with relevant Actuarial Standards of Practice.

5. Section 10911.C: The valuation mortality table used in determining the tabular cost of insurance shall be the ultimate mortality rates in the 2001 CSO Mortality Table.

6. Section 10911.E.4: The calculations specified in §10911.E shall use the ultimate mortality rates in the 2001 CSO Mortality Table.

7. Section 10911.F.4: The calculations specified in §10911.F shall use the ultimate mortality rates in the 2001 CSO Mortality Table.

8. Section 10911.G.2: The calculations specified in §10911.G shall use the ultimate mortality rates in the 2001 CSO Mortality Table.

9. Section 10913.A.1.b: The one-year valuation premium shall be calculated using the ultimate mortality rates in the 2001 CSO Mortality Table.

B. Nothing in this section shall be construed to expand the applicability of Regulation 85 to include life insurance policies exempted under §10905.A of Regulation 85.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:3, 22:163, 22:168 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:2542 (October 2005).

§10713. Gender-Blended Tables

A. For any ordinary life insurance policy delivered or issued for delivery in this state on and after January 1, 2005, that utilizes the same premium rates and charges for male and female lives or is issued in circumstances where applicable law does not permit distinctions on the basis of gender, a mortality table that is a blend of the 2001 CSO Mortality Table (M) and the 2001 CSO Mortality Table (F) may, at the option of the company for each plan of insurance, be substituted for the 2001 CSO Mortality Table for use in determining minimum cash surrender values and amounts of paid-up nonforfeiture benefits. No change in minimum valuation standards is implied by this Subsection of the regulation.

B. The company may choose from among the blended tables developed by the American Academy of Actuaries CSO Task Force and adopted by the NAIC in December 2002.

C. It shall not, in and of itself, be a violation of R.S. 22:1211 et seq. for an insurer to issue the same kind of policy of life insurance on both a sex-distinct and sex-neutral basis.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:3, 22:163, 22:168 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:2543 (October 2005).

§10715. Separability

A. If any provision of this regulation or its application to any person or circumstance is for any reason held to be invalid, the remainder of the regulation and the application of the provision to other persons or circumstances shall not be affected.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:3, 22:163, 22:168 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:2543 (October 2005).

§10717. Effective Date

A. The approximate effective date for this Regulation is November 1, 2005.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:3, 22:163, 22:168 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:2543 (October 2005).

J. Robert Wooley
Commissioner

0510#078

RULE

Department of Insurance
Office of the Commissioner

Regulation Number 47—Actuarial Opinion and Memorandum Regulation
(LAC 37:XIII.Chapter 21)

Under the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Commissioner of the Louisiana Department of Insurance hereby repeals its current Regulation 47 entitled "Actuarial Memoranda" as promulgated in the February 20, 1994 *Louisiana Register*, Volume 20, Number 2, page 194, et seq. and simultaneously enacts a replacement Regulation 47 entitled "Actuarial Opinion and Memorandum" developed from the National Association of Insurance Commissioners (NAIC) Model Act of the same name. This new Regulation will replace and supersede in all respects the prior Regulation of the same number.

Title 37
INSURANCE
Part XIII. Regulations

Chapter 21. Regulation Number 47—Actuarial Opinion and Memorandum Regulation

§2101. Purpose

A. The purpose of this Regulation is to prescribe:

1. requirements for statements of actuarial opinion that are to be submitted in accordance with R.S. 22:162.1, and for memoranda in support thereof;

2. rules applicable to the appointment of an appointed actuary; and

3. guidance as to the meaning of "adequacy of reserves."

AUTHORITY NOTE: Promulgated in accordance with R.S.22:3, 22:162.1 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:2543 (October 2005).

§2103. Authority

A. This Regulation is issued pursuant to the authority vested in the Commissioner of Insurance of the State of Louisiana under R.S. 22:162.1. This Regulation will take effect for annual statements for the year 2005.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:3, 22:162.1 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:2543 (October 2005).

§2105. Scope

A. This Regulation shall apply to all life insurance companies and fraternal benefit societies doing business in

this state and to all life insurance companies and fraternal benefit societies that are authorized to reinsure life insurance, annuities or accident and health insurance business in this state. This Regulation shall be applied in a manner that allows the appointed actuary to utilize his or her professional judgment in performing the asset analysis and developing the actuarial opinion and supporting memoranda, consistent with relevant actuarial standards of practice. However, the commissioner shall have the authority to specify methods of actuarial analysis particular to a company's business profile and may include specific actuarial methods and assumptions including, where appropriate, simplified actuarial methods and assumptions, when, in the commissioner's judgment, such specifications are necessary, or sufficient, to meet the objective of rendering an acceptable opinion as to the adequacy of the reserves and related items.

B. This Regulation shall be applicable to all annual statements filed with the office of the commissioner after the effective date of this Regulation. A statement of opinion on the adequacy of the reserves and related actuarial items based on an asset adequacy analysis in accordance with §2111 of this Regulation, and a memorandum in support thereof in accordance with §2113 of this Regulation, shall be required each year.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:3, 22:162.1 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:2543 (October 2005).

§2107. Definitions

*Actuarial Opinion*Cthe opinion of an appointed actuary regarding the adequacy of the reserves and related actuarial items based on an asset adequacy analysis in accordance with §2111 of this Regulation and with applicable Actuarial Standards of Practice.

*Actuarial Standards Board*Cthe board established by the American Academy of Actuaries to develop and promulgate standards of actuarial practice.

*Annual Statement*Cthat statement required by Section R.S. 22:1451 of the Insurance Law to be filed by the company with the office of the commissioner annually.

*Appointed Actuary*Can individual who is appointed or retained in accordance with the requirements set forth in §2109.C. of this Regulation to provide the actuarial opinion and supporting memorandum as required by R.S. 22:162.1.

*Asset Adequacy Analysis*Can analysis that meets the standards and other requirements referred to in §2109.D. of this Regulation.

*Commissioner*Cthe Insurance Commissioner of this state.

*Company*Ca life insurance company, fraternal benefit society or reinsurer subject to the provisions of this Regulation.

*Qualified Actuary*Can individual who meets the requirements set forth in §2109.B. of this Regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:3, 22:162.1 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:2544 (October 2005).

§2109. General Requirements

A. Submission of Statement of Actuarial Opinion

1. There is to be included on or attached to Page 1 of the annual statement for each year beginning with the year in which this Regulation becomes effective the statement of an appointed actuary, entitled "Statement of Actuarial Opinion," setting forth an opinion relating to reserves and related actuarial items held in support of policies and contracts, in accordance with §2111 of this Regulation.

2. Upon written request by the company, the commissioner may grant an extension of the date for submission of the statement of actuarial opinion.

B. Qualified Actuary. A "qualified actuary" is an individual who:

1. is a member in good standing of the American Academy of Actuaries;

2. is qualified to sign statements of actuarial opinion for life and health insurance company annual statements in accordance with the American Academy of Actuaries qualification standards for actuaries signing such statements;

3. is familiar with the valuation requirements applicable to life and health insurance companies;

4. has not been found by the commissioner (or if so found has subsequently been reinstated as a qualified actuary), following appropriate notice and hearing to have:

a. violated any provision of, or any obligation imposed by, the insurance law or other law in the course of his or her dealings as a qualified actuary;

b. been found guilty of fraudulent or dishonest practices;

c. demonstrated his or her incompetency, lack of cooperation, or untrustworthiness to act as a qualified actuary;

d. submitted to the commissioner during the past five years, pursuant to this Regulation, an actuarial opinion or memorandum that the commissioner rejected because it did not meet the provisions of this Regulation including standards set by the Actuarial Standards Board; or

e. resigned or been removed as an actuary within the past five years as a result of acts or omissions indicated in any adverse report on examination or as a result of failure to adhere to generally acceptable actuarial standards; and

5. has not failed to notify the commissioner of any action taken by any commissioner of any other state similar to that under Paragraph 4 above.

C. Appointed Actuary. An "appointed actuary" is a qualified actuary who is appointed or retained to prepare the Statement of Actuarial Opinion required by this Regulation, either directly by or by the authority of the board of directors through an executive officer of the company other than the qualified actuary. The company shall give the commissioner timely written notice of the name, title (and, in the case of a consulting actuary, the name of the firm) and manner of appointment or retention of each person appointed or retained by the company as an appointed actuary and shall state in the notice that the person meets the requirements set forth in Subsection B. Once notice is furnished, no further notice is required with respect to this person, provided that the company shall give the commissioner timely written notice in the event the actuary ceases to be appointed or

retained as an appointed actuary or to meet the requirements set forth in Subsection B. If any person appointed or retained as an appointed actuary replaces a previously appointed actuary, the notice shall so state and give the reasons for replacement.

D. Standards for Asset Adequacy Analysis. The asset adequacy analysis required by this Regulation:

1. shall conform to the Standards of Practice as promulgated from time to time by the Actuarial Standards Board and on any additional standards under this Regulation, which standards are to form the basis of the statement of actuarial opinion in accordance with this Regulation; and

2. shall be based on methods of analysis as are deemed appropriate for such purposes by the Actuarial Standards Board;

3. shall comply with the commissioner's specific method of actuarial analysis when the commissioner has specified a method of actuarial analysis to be in effect for a particular company. When a conflict exists between a commissioner specified method of actuarial analysis and the standards of Paragraphs 1 and 2, the commissioner's specific method of actuarial analysis prevails.

E. Liabilities to be Covered

1. Under authority of R.S. 22:162.1, the statement of actuarial opinion shall apply to all in force business on the statement date, whether directly issued or assumed, regardless of when or where issued, e.g., reserves of Exhibits 5, 6 and 7, and claim liabilities in Exhibit 8, Part 1 and equivalent items in the separate account statement or statements.

2. If the appointed actuary determines as the result of asset adequacy analysis that a reserve should be held in addition to the aggregate reserve held by the company and calculated in accordance with methods set forth in the Standard Valuation Law, the company shall establish the additional reserve.

3. Additional reserves established under Paragraph 2 above and deemed not necessary in subsequent years may be released. Any amounts released shall be disclosed in the actuarial opinion for the applicable year. The release of such reserves would not be deemed an adoption of a lower standard of valuation.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:3, 22:162.1 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:2544 (October 2005).

§2111. Statement of Actuarial Opinion Based on an Asset Adequacy Analysis

A. General Description. The statement of actuarial opinion submitted in accordance with this Section shall consist of:

1. a paragraph identifying the appointed actuary and his or her qualifications (see Paragraph B.1);

2. a scope paragraph identifying the subjects on which an opinion is to be expressed and describing the scope of the appointed actuary's work, including a tabulation delineating the reserves and related actuarial items that have been analyzed for asset adequacy and the method of analysis, (see Paragraph B.2) and identifying the reserves and related actuarial items covered by the opinion that have not been so analyzed;

3. a reliance paragraph describing those areas, if any, where the appointed actuary has deferred to other experts in developing data, procedures or assumptions, (e.g., anticipated cash flows from currently owned assets, including variation in cash flows according to economic scenarios (see Paragraph B.3), supported by a statement of each such expert in the form prescribed by Subsection E; and

4. an opinion paragraph expressing the appointed actuary's opinion with respect to the adequacy of the supporting assets to mature the liabilities (see Paragraph B.6);

5. one or more additional paragraphs will be needed in individual company cases as follows:

a. if the appointed actuary considers it necessary to state a qualification of his or her opinion;

b. if the appointed actuary must disclose an inconsistency in the method of analysis or basis of asset allocation used at the prior opinion date with that used for this opinion;

c. if the appointed actuary must disclose whether additional reserves as of the prior opinion date are released as of this opinion date, and the extent of the release;

d. if the appointed actuary chooses to add a paragraph briefly describing the assumptions that form the basis for the actuarial opinion.

B. Recommended Language. The following paragraphs are to be included in the statement of actuarial opinion in accordance with this section. Language is that which in typical circumstances should be included in a statement of actuarial opinion. The language may be modified as needed to meet the circumstances of a particular case, but the appointed actuary should use language that clearly expresses his or her professional judgment. However, in any event the opinion shall retain all pertinent aspects of the language provided in this Section.

1. The opening paragraph should generally indicate the appointed actuary's relationship to the company and his or her qualifications to sign the opinion.

a. For a company actuary, the opening paragraph of the actuarial opinion should include a statement such as:

> "I, [name], am [title] of [insurance company name] and a member of the American Academy of Actuaries. I was appointed by, or by the authority of, the Board of Directors of said insurer to render this opinion as stated in the letter to the commissioner dated [insert date]. I meet the Academy qualification standards for rendering the opinion and am familiar with the valuation requirements applicable to life and health insurance companies."

b. For a consulting actuary, the opening paragraph should include a statement such as:

> "I, [name], a member of the American Academy of Actuaries, am associated with the firm of [name of consulting firm]. I have been appointed by, or by the authority of, the Board of Directors of [name of company] to render this opinion as stated in the letter to the commissioner dated [insert date]. I meet the Academy qualification standards for rendering the opinion and am familiar with the valuation requirements applicable to life and health insurance companies."

2. The scope paragraph should include a statement such as:

> "I have examined the actuarial assumptions and actuarial methods used in determining reserves and related actuarial items listed below, as shown in the annual statement of the company, as prepared for filing with state regulatory officials, as of December 31, 20[ ]. Tabulated below are those reserves

and related actuarial items which have been subjected to asset adequacy analysis."

Asset Adequacy Tested Amounts—Reserves and Liabilities					
Statement Item	Formula Reserves (1)	Additional Actuarial Reserves (a) (2)	Analysis Method (b)	Other Amount (3)	Total Amount (1)+(2)+(3) (4)
Exhibit 5 A Life Insurance					
B Annuities					
C Supplementary Contracts Involving Life Contingencies					
D Accidental Death Benefit					
E Disability - Active					
F Disability - Disabled					
G Miscellaneous					
Total (Exhibit 5 Item 1, Page 3)					
Exhibit 6 A Active Life Reserve					
B Claim Reserve					
Total (Exhibit 6 Item 2, Page 3)					
Exhibit 7 Premium and Other Deposit Funds (Column 5, Line 14)					
Guaranteed Interest Contracts (Column 2, Line 14)					
Other (Column 6, Line 14)					
Supplemental Contracts and Annuities Certain (Column 3, Line 14)					
Dividend Accumulations or Refunds (Column 4, Line 14)					
Total Exhibit 7 (Column 1, Line 14)					
Exhibit 8, Part 1 1 Life (Page 3, Line 4.1)					
2 Health (Page 3 Line 4.2)					
Total Exhibit 11, Part 1					
Separate Accounts (Page 3 of the Annual Statement of the Separate Accounts, Lines 1, 2, 3.1, 3.2, 3.3)					
TOTAL RESERVES					

IMR (General Account, Page ___ Line ___)	
(Separate Accounts, Page ___ Line ___)	
AVR (Page ___ Line ___)	(c)
Net Deferred and Uncollected Premium	

Notes:

a. The additional actuarial reserves are the reserves established under Paragraph~~s~~ (2) of Section 2109.E.

b. The appointed actuary should indicate the method of analysis, determined in accordance with the standards for asset adequacy analysis referred to in Section 2109.D of this Regulation, by means of symbols that should be defined in footnotes to the table.

c. Allocated amount of Asset Valuation Reserve (AVR).

3. If the appointed actuary has relied on other experts to develop certain portions of the analysis, the reliance paragraph should include a statement such as:

"I have relied on [name], [title] for [e.g., "anticipated cash flows from currently owned assets, including variations in cash flows according to economic scenarios" or "certain critical aspects of the analysis performed in conjunction with forming my opinion"], as certified in the attached statement. I have reviewed the information relied upon for reasonableness."

A statement of reliance on other experts should be accompanied by a statement by each of the experts in the form prescribed by §2111.E.

4. If the appointed actuary has examined the underlying asset and liability records, the reliance paragraph should include a statement such as:

"My examination included such review of the actuarial assumptions and actuarial methods and of the underlying basic asset and liability records and such tests of the actuarial calculations as I considered necessary. I also reconciled the underlying basic asset and liability records to [exhibits and schedules listed as applicable] of the company's current annual statement."

5. If the appointed actuary has not examined the underlying records, but has relied upon data (e.g., listings and summaries of policies in force or asset records) prepared by the company, the reliance paragraph should include a statement such as:

"In forming my opinion on [specify types of reserves] I relied upon data prepared by [name and title of company officer certifying in force records or other data] as certified in the attached statements. I evaluated that data for reasonableness and consistency. I also reconciled that data to [exhibits and schedules to be listed as applicable] of the company's current annual statement. In other respects, my examination included review of the actuarial assumptions and actuarial methods used and tests of the calculations I considered necessary."

The section shall be accompanied by a statement by each person relied upon in the form prescribed by Subsection E.

6. The opinion paragraph should include a statement such as:

"In my opinion the reserves and related actuarial values concerning the statement items identified above:

a. are computed in accordance with presently accepted actuarial standards consistently applied and are fairly stated, in accordance with sound actuarial principles;

b. are based on actuarial assumptions that produce reserves at least as great as those called for in any contract provision as to reserve basis and method, and are in accordance with all other contract provisions;

c. meet the requirements of the Insurance Law and Regulation of the state of [state of domicile]; and are at least as great as the minimum aggregate amounts required by the state in which this statement is filed;

d. are computed on the basis of assumptions consistent with those used in computing the corresponding items in the annual statement of the preceding year-end (with any exceptions noted below); and

e. include provision for all actuarial reserves and related statement items which ought to be established.

The reserves and related items, when considered in light of the assets held by the company with respect to such reserves and related actuarial items including, but not limited to, the investment earnings on the assets, and the considerations anticipated to be received and retained under the policies and contracts, make adequate provision, according to presently accepted actuarial standards of practice, for the anticipated cash flows required by the contractual obligations and related expenses of the company. (At the discretion of the commissioner, this language may be omitted for an opinion filed on behalf of a company doing business only in this state and in no other state.)

The actuarial methods, considerations and analyses used in forming my opinion conform to the appropriate Standards of Practice as promulgated by the Actuarial Standards Board, which standards form the basis of this statement of opinion.

This opinion is updated annually as required by statute. To the best of my knowledge, there have been no material changes from the applicable date of the annual statement to the date of the rendering of this opinion which should be considered in reviewing this opinion.

or

The following material changes which occurred between the date of the statement for which this opinion is applicable and the date of this opinion should be considered in reviewing this opinion: (Describe the change or changes.)

Note: Choose one of the above two paragraphs, whichever is applicable.

The impact of unanticipated events subsequent to the date of this opinion is beyond the scope of this opinion. The analysis of asset adequacy portion of this opinion should be viewed recognizing that the company' future experience may not follow all the assumptions used in the analysis.

_____
Signature of Appointed Actuary

_____
Address of Appointed Actuary

_____
Telephone Number of Appointed Actuary

_____
Date"

C. Assumptions for New Issues

1. The adoption for new issues or new claims or other new liabilities of an actuarial assumption that differs from a corresponding assumption used for prior new issues or new claims or other new liabilities is not a change in actuarial assumptions within the meaning of this §2111.

D. Adverse Opinions

1. If the appointed actuary is unable to form an opinion, then he or she shall refuse to issue a statement of actuarial opinion. If the appointed actuary's opinion is adverse or qualified, then he or she shall issue an adverse or qualified actuarial opinion explicitly stating the reasons for the opinion. This statement should follow the scope paragraph and precede the opinion paragraph.

E. Reliance on Information Furnished by Other Persons

1. If the appointed actuary relies on the certification of others on matters concerning the accuracy or completeness of any data underlying the actuarial opinion, or the appropriateness of any other information used by the appointed actuary in forming the actuarial opinion, the actuarial opinion should so indicate the persons the actuary is relying upon and a precise identification of the items subject to reliance. In addition, the persons on whom the appointed actuary relies shall provide a certification that precisely identifies the items on which the person is providing information and a statement as to the accuracy, completeness or reasonableness, as applicable, of the items. This certification shall include the signature, title, company, address and telephone number of the person rendering the certification, as well as the date on which it is signed.

F. Alternate Option

1. The commissioner may provide an alternative filing option for domestic insurance companies that allows for the preparation of an alternative form of opinion. The commissioner shall provide specific criteria for such an alternative filing option and instructions for the associated testing and documentation.

2. The Standard Valuation Law gives the commissioner broad authority to accept the valuation of a foreign insurer when that valuation meets the requirements applicable to a company domiciled in this state in the aggregate. As an alternative to the requirements of Subsection B.6.(a)(iii), the commissioner may make one or more of the following additional approaches available to the opining actuary.

a. A statement that the reserves "meet the requirements of the insurance laws and Regulations of the state of [state of domicile] and the formal written standards and conditions of this state for filing an opinion based on the law of the state of domicile." If the commissioner chooses to allow this alternative, a formal written list of standards and conditions shall be made available. If a company chooses to use this alternative, the standards and conditions in effect on July 1 of a calendar year shall apply to statements for that calendar year, and they shall remain in effect until they are revised or revoked. If no list is available, this alternative is not available.

b. statement that the reserves "meet the requirements of the insurance laws and Regulations of the state of [state of domicile] and I have verified that the company's request to file an opinion based on the law of the state of domicile has been approved and that any conditions required by the commissioner for approval of that request have been met." If the commissioner chooses to allow this alternative, a formal written statement of such allowance shall be issued no later than March 31 of the year it is first effective. It shall remain valid until rescinded or modified by the commissioner. The rescission or modifications shall be issued no later than March 31 of the year they are first effective. Subsequent to that statement being issued, if a company chooses to use this alternative, the company shall file a request to do so, along with justification for its use, no later than April 30 of the year of the opinion to be filed. The request shall be deemed approved on October 1 of that year if the commissioner has not denied the request by that date.

c. A statement that the reserves "meet the requirements of the insurance laws and Regulations of the state of [state of domicile] and I have submitted the required comparison as specified by this state."

i. If the commissioner chooses to allow this alternative, a formal written list of products (to be added to the table in Clause ii below) for which the required comparison shall be provided will be published. If a company chooses to use this alternative, the list in effect on July 1 of a calendar year shall apply to statements for that calendar year, and it shall remain in effect until it is revised or revoked. If no list is available, this alternative is not available.

ii. If a company desires to use this alternative, the appointed actuary shall provide a comparison of the gross nationwide reserves held to the gross nationwide reserves that would be held under NAIC codification standards. Gross nationwide reserves are the total reserves calculated for the total company in force business directly sold and assumed, indifferent to the state in which the risk resides,

without reduction for reinsurance ceded. The information provided shall be at least:

(1) Product Type	(2) Death Benefit or Account Value	(3) Reserves Held	(4) Codification Reserves	(5) Codification Standard

iii. The information listed shall include all products identified by either the state of filing or any other states subscribing to this alternative.

iv. If there is no codification standard for the type of product or risk in force or if the codification standard does not directly address the type of product or risk in force, the appointed actuary shall provide detailed disclosure of the specific method and assumptions used in determining the reserves held.

v. The comparison provided by the company is to be kept confidential to the same extent and under the same conditions as the actuarial memorandum.

3. Notwithstanding the above, the commissioner may reject an opinion based on the laws and Regulations of the state of domicile and require an opinion based on the laws of this state. If a company is unable to provide the opinion within 60 days of the request or such other period of time determined by the commissioner after consultation with the company, the commissioner may contract an independent actuary at the company's expense to prepare and file the opinion.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:3, 22:162.1 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:2545 (October 2005).

§2113. Description of Actuarial Memorandum Including an Asset Adequacy Analysis and Regulatory Asset Adequacy Issues Summary

A. General

1. In accordance with R.S. 22:162.1, the appointed actuary shall prepare a memorandum to the company describing the analysis done in support of his or her opinion regarding the reserves. The memorandum shall be made available for examination by the commissioner upon his or her request but shall be returned to the company after such examination and shall not be considered a record of the insurance department or subject to automatic filing with the commissioner.

2. In preparing the memorandum, the appointed actuary may rely on, and include as a part of his or her own memorandum, memoranda prepared and signed by other actuaries who are qualified within the meaning of §2109.B. of this Regulation, with respect to the areas covered in such memoranda, and so state in their memoranda.

3. If the commissioner requests a memorandum and no such memorandum exists or if the commissioner finds that the analysis described in the memorandum fails to meet the standards of the Actuarial Standards Board or the standards and requirements of this Regulation, the commissioner may designate a qualified actuary to review the opinion and prepare such supporting memorandum as is required for review. The reasonable and necessary expense of the independent review shall be paid by the company but shall be directed and controlled by the commissioner.

4. The reviewing actuary shall have the same status as an examiner for purposes of obtaining data from the company and the work papers and documentation of the reviewing actuary shall be retained by the commissioner; provided, however, that any information provided by the company to the reviewing actuary and included in the work papers shall be considered as material provided by the company to the commissioner and shall be kept confidential to the same extent as is prescribed by law with respect to other material provided by the company to the commissioner pursuant to the statute governing this Regulation. The reviewing actuary shall not be an employee of a consulting firm involved with the preparation of any prior memorandum or opinion for the insurer pursuant to this Regulation for any one of the current year or the preceding three years.

5. In accordance with R.S. 22:162.1, the appointed actuary shall prepare a regulatory asset adequacy issues summary, the contents of which are specified in Subsection C. The regulatory asset adequacy issues summary will be submitted no later than March 15 of the year following the year for which a statement of actuarial opinion based on asset adequacy is required. The regulatory asset adequacy issues summary is to be kept confidential to the same extent and under the same conditions as the actuarial memorandum.

B. Details of the Memorandum Section Documenting Asset Adequacy Analysis

1. When the opinion provided under the domestic company alternative filing option as referred to in §2111.F.1, then an alternative memorandum shall be prepared in accordance with specific instructions of the commissioner and the company shall be exempt from the requirements of §2113, otherwise, the memorandum shall demonstrate that the analysis has been done in accordance with the standards for asset adequacy referred to in §2109.D. of this Regulation and any additional standards under this Regulation. It shall specify:

a. for reserves:

i. product descriptions including market description, underwriting and other aspects of a risk profile and the specific risks the appointed actuary deems significant;

ii. source of liability in force;

iii. reserve method and basis;

iv. investment reserves;

v. reinsurance arrangements;

vi. identification of any explicit or implied guarantees made by the general account in support of benefits provided through a separate account or under a separate account policy or contract and the methods used by the appointed actuary to provide for the guarantees in the asset adequacy analysis;

vii. documentation of assumptions to test reserves for the following:

(a). lapse rates (both base and excess);

(b). interest crediting rate strategy;

(c). mortality;

(d). policyholder dividend strategy;

(e). competitor or market interest rate;

(f). annuitization rates;

(g). commissions and expenses; and

(h). morbidity;

The documentation of the assumptions shall be such that an actuary reviewing the actuarial memorandum could form a conclusion as to the reasonableness of the assumptions.

2. for assets:

a. portfolio descriptions, including a risk profile disclosing the quality, distribution and types of assets;

b. investment and disinvestment assumptions;

c. source of asset data;

d. asset valuation bases; and

e. documentation of assumptions made for:

i. default costs;

ii. bond call function;

iii. mortgage prepayment function;

iv. determining market value for assets sold due to disinvestment strategy; and

v. determining yield on assets acquired through the investment strategy.

The documentation of the assumptions shall be such that an actuary reviewing the actuarial memorandum could form a conclusion as to the reasonableness of the assumptions.

3. for the analysis basis:

a. methodology;

b. rationale for inclusion or exclusion of different blocks of business and how pertinent risks were analyzed;

c. rationale for degree of rigor in analyzing different blocks of business (include in the rationale the level of "materiality" that was used in determining how rigorously to analyze different blocks of business);

d. criteria for determining asset adequacy (include in the criteria the precise basis for determining if assets are adequate to cover reserves under "moderately adverse conditions" or other conditions as specified in relevant actuarial standards of practice); and

e. whether the impact of federal income taxes was considered and the method of treating reinsurance in the asset adequacy analysis;

4. summary of material changes in methods, procedures, or assumptions from prior year's asset adequacy analysis;

5. summary of results; and

6. conclusions.

C. Details of the Regulatory Asset Adequacy Issues Summary

1. The regulatory asset adequacy issues summary shall include:

a. descriptions of the scenarios tested (including whether those scenarios are stochastic or deterministic) and the sensitivity testing done relative to those scenarios. If negative ending surplus results under certain tests in the aggregate, the actuary should describe those tests and the amount of additional reserve as of the valuation date which, if held, would eliminate the negative aggregate surplus values. Ending surplus values shall be determined by either extending the projection period until the in force and associated assets and liabilities at the end of the projection period are immaterial or by adjusting the surplus amount at the end of the projection period by an amount that appropriately estimates the value that can reasonably be expected to arise from the assets and liabilities remaining in force;

b. the extent to which the appointed actuary uses assumptions in the asset adequacy analysis that are materially different than the assumptions used in the previous asset adequacy analysis;

c. the amount of reserves and the identity of the product lines that had been subjected to asset adequacy analysis in the prior opinion but were not subject to analysis for the current opinion;

d. comments on any interim results that may be of significant concern to the appointed actuary;

e. the methods used by the actuary to recognize the impact of reinsurance on the company's cash flows, including both assets and liabilities, under each of the scenarios tested; and

f. whether the actuary has been satisfied that all options whether explicit or embedded, in any asset or liability (including but not limited to those affecting cash flows embedded in fixed income securities) and equity-like features in any investments have been appropriately considered in the asset adequacy analysis.

2. The regulatory asset adequacy issues summary shall contain the name of the company for which the regulatory asset adequacy issues summary is being supplied and shall be signed and dated by the appointed actuary rendering the actuarial opinion.

D. Conformity to Standards of Practice. The memorandum shall include a statement:

"Actuarial methods, considerations and analyses used in the preparation of this memorandum conform to the appropriate Standards of Practice as promulgated by the Actuarial Standards Board, which standards form the basis for this memorandum."

E. Use of Assets Supporting the Interest Maintenance Reserve and the Asset Valuation Reserve

1. An appropriate allocation of assets in the amount of the interest maintenance reserve (IMR), whether positive or negative, shall be used in any asset adequacy analysis. Analysis of risks regarding asset default may include an appropriate allocation of assets supporting the asset valuation reserve (AVR); these AVR assets may not be applied for any other risks with respect to reserve adequacy. Analysis of these and other risks may include assets supporting other mandatory or voluntary reserves available to the extent not used for risk analysis and reserve support.

2. The amount of the assets used for the AVR shall be disclosed in the table of reserves and liabilities of the opinion and in the memorandum. The method used for selecting particular assets or allocated portions of assets shall be disclosed in the memorandum.

F. Documentation. The appointed actuary shall retain on file, for at least seven years, sufficient documentation so that it will be possible to determine the procedures followed, the analyses performed, the bases for assumptions and the results obtained.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:3, 22:162.1 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:2548 (October 2005).

J. Robert Wooley
Commissioner

0510#076

RULE

Department of Insurance
Office of the Commissioner

Regulation 85CValuation of Life Insurance Policies
(LAC 37:XIII.Chapter 109)

Under the authority of the Louisiana Insurance Code, R.S. 22;1 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Commissioner of the Louisiana Department of Insurance hereby promulgates its Regulation 85, which prescribes a statutory reserve valuation basis for term life insurance, and universal life insurance with special coverage guarantees. This valuation basis gives recognition to the unique premium payment and coverage patterns of the term and universal life products, and will produce adequate but not excessive statutory reserves.

Title 37
INSURANCE
Part XIII. Regulations

Chapter 109. Regulation Number 85

§10901. Purpose

A. The purpose of this regulation is to provide:

1. tables of select mortality factors and rules for their use;

2. rules concerning a minimum standard for the valuation of plans with nonlevel premiums or benefits; and

3. rules concerning a minimum standard for the valuation of plans with secondary guarantees.

B. The method for calculating basic reserves defined in this regulation will constitute the Commissioners' Reserve Valuation Method for policies to which this regulation is applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:3, 22:163, 22:168 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:2550 (October 2005).

§10903. Authority

A. This regulation is promulgated by the Commissioner of Insurance pursuant to authority granted under the Louisiana Insurance Code, Title 22, Section 22:1 et seq., particularly the Standard Valuation Law, see Title 22, §163.B.1.a and the Standard Nonforfeiture Law for Life Insurance, see Title 22 §168.G.(8)(f).

AUTHORITY NOTE: Promulgated in accordance with R.S.22:3, 22:163, 22:168 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:2550 (October 2005).

§10905. Applicability

A. This regulation shall apply to all life insurance policies, with or without nonforfeiture values, issued on or after the effective date of this regulation, subject to the following exceptions and conditions.

1. Exceptions

a. This regulation shall not apply to any individual life insurance policy issued on or after the effective date of this regulation if the policy is issued in accordance with and as a result of the exercise of a reentry provision contained in the original life insurance policy of the same or greater face amount, issued before the effective date of this regulation, that guarantees the premium rates of the new policy. This regulation also shall not apply to subsequent policies issued as a result of the exercise of such a provision, or a derivation of the provision, in the new policy.

b. This regulation shall not apply to any universal life policy that meets all the following requirements:

i. secondary guarantee period, if any, is five years or less;

ii. specified premium for the secondary guarantee period is not less than the net level reserve premium for the secondary guarantee period based on the *CSO valuation tables* as defined in §10907 and the applicable valuation interest rate; and

iii. the initial surrender charge is not less than 100 percent of the first year annualized specified premium for the secondary guarantee period.

c. This regulation shall not apply to any variable life insurance policy that provides for life insurance, the amount or duration of which varies according to the investment experience of any separate account or accounts.

d. This regulation shall not apply to any variable universal life insurance policy that provides for life insurance, the amount or duration of which varies according to the investment experience of any separate account or accounts.

e. This regulation shall not apply to a group life insurance certificate unless the certificate provides for a stated or implied schedule of maximum gross premiums required in order to continue coverage in force for a period in excess of one year.

2. Conditions

a. Calculation of the minimum valuation standard for policies with guaranteed nonlevel gross premiums or guaranteed nonlevel benefits (other than universal life policies), or both, shall be in accordance with the provisions of §10911.

b. Calculation of the minimum valuation standard for flexible premium and fixed premium universal life insurance policies, that contain provisions resulting in the ability of a policyholder to keep a policy in force over a secondary guarantee period shall be in accordance with the provisions of §10913.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:3, 22:163, 22:168 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:2550 (October 2005).

§10907. Definitions

A. For purposes of this regulation:

*Basic Reserves*Creserves calculated in accordance with R.S. 22:163.B.(4)(a).

*Contract Segmentation Method*C

a. the method of dividing the period from issue to mandatory expiration of a policy into successive segments, with the length of each segment being defined as the period from the end of the prior segment (from policy inception, for the first segment) to the end of the latest policy year as determined below. All calculations are made using the *1980 CSO valuation tables*, as defined in this Section, (or any other valuation mortality table adopted by the National

Association of Insurance Commissioners (NAIC) after the effective date of this regulation and promulgated by regulation by the commissioner for this purpose), and, if elected, the optional minimum mortality standard for deficiency reserves stipulated in §10909.B of this regulation;

b. the length of a particular contract segment shall be set equal to the minimum of the value *t* for which G_t is greater than R_t (if G_t never exceeds R_t the segment length is deemed to be the number of years from the beginning of the segment to the mandatory expiration date of the policy), where G_t and R_t are defined as follows:

$$G_t = \frac{GP_{x+k+t}}{GP_{x+k+t-1}}$$

where:

x = original issue age;

k = the number of years from the date of issue to the beginning of the segment;

t = 1, 2, ...; *t* is reset to 1 at the beginning of each segment;

$GP_{x+k+t-1}$ = Guaranteed gross premium per thousand of face amount for year *t* of the segment, ignoring policy fees only if level for the premium paying period of the policy.

$$R_t = \frac{q_{x+k+t}}{q_{x+k+t-1}},$$

However, R_t may be increased or decreased by one percent in any policy year, at the company's option, but R_t shall not be less than one;

where:

x, k and t are as defined above, and

qx+k+t-1 = valuation mortality rate for deficiency reserves in policy year k+t but using the mortality of §10909B.2 if §10909B.3 is elected for deficiency reserves.

However, if GP_{x+k+t} is greater than 0 and $GP_{x+k+t-1}$ is equal to 0, G_t shall be deemed to be 1000. If GP_{x+k+t} and $GP_{x+k+t-1}$ are both equal to 0, G_t shall be deemed to be 0.

*Deficiency Reserves*Cthe excess, if greater than zero, of:

a. minimum reserves calculated in accordance with R.S. 22:163.B.(8)(a); over

b. basic reserves.

*Guaranteed Gross Premiums*Cthe premiums under a policy of life insurance that are guaranteed and determined at issue.

*Maximum Valuation Interest Rates*Cthe interest rates defined in R.S. 22:163.B.(3)(a) are to be used in determining the minimum standard for the valuation of life insurance policies.

*1980 CSO Valuation Tables*Cthe Commissioners 1980 Standard Ordinary Mortality Table (1980 CSO Table) without ten-year selection factors, incorporated into the 1980 amendments to the NAIC Standard Valuation Law, and variations of the 1980 CSO Table approved by the NAIC, such as the smoker and nonsmoker versions approved in December 1983.

*Scheduled Gross Premium*Cthe smallest illustrated gross premium at issue for other than universal life insurance policies. For universal life insurance policies, scheduled gross premium means the smallest specified premium described in §10913.A.3, if any, or else the minimum premium described in §10913.A.4.

*Segmented Reserves*Creserves calculated using segments produced by the contract segmentation method, equal to the present value of all future guaranteed benefits less the present value of all future net premiums to the mandatory expiration of a policy, where the net premiums within each segment are a uniform percentage of the respective guaranteed gross premiums within the segment. The uniform percentage for each segment is such that, at the beginning of the segment, the present value of the net premiums within the segment equals:

a. the present value of the death benefits within the segment; plus

b. the present value of any unusual guaranteed cash value (see §10911.D) occurring at the end of the segment; less

c. any unusual guaranteed cash value occurring at the start of the segment; plus

d. for the first segment only, the excess of the Clause i over Clause ii, as follows:

i. a net level annual premium equal to the present value, at the date of issue, of the benefits provided for in the first segment after the first policy year, divided by the present value, at the date of issue, of an annuity of one per year payable on the first and each subsequent anniversary within the first segment on which a premium falls due. However, the net level annual premium shall not exceed the net level annual premium on the 19-year premium whole life plan of insurance of the same renewal year equivalent level amount at an age one year higher than the age at issue of the policy;

ii. a net one year term premium for the benefits provided for in the first policy year;

e. the length of each segment is determined by the *contract segmentation method*, as defined in this Section;

f. the interest rates used in the present value calculations for any policy may not exceed the maximum valuation interest rate, determined with a guarantee duration equal to the sum of the lengths of all segments of the policy;

g. for both basic reserves and deficiency reserves computed by the segmented method, present values shall include future benefits and net premiums in the current segment and in all subsequent segments.

*Tabular Cost of Insurance*Cthe net single premium at the beginning of a policy year for one-year term insurance in the amount of the guaranteed death benefit in that policy year.

*Ten-Year Select Factors*Cthe select factors adopted with the 1980 amendments to the NAIC Standard Valuation Law.

*Unitary Reserves*C

a. the present value of all future guaranteed benefits less the present value of all future modified net premiums, where:

i. guaranteed benefits and modified net premiums are considered to the mandatory expiration of the policy; and

ii. modified net premiums are a uniform percentage of the respective guaranteed gross premiums, where the uniform percentage is such that, at issue, the present value of the net premiums equals the present value of all death benefits and pure endowments, plus the excess of Subclause (a) over Subclause (b), as follows:

(a). a net level annual premium equal to the present value, at the date of issue, of the benefits provided for after the first policy year, divided by the present value, at the date of issue, of an annuity of one per year payable on the first and each subsequent anniversary of the policy on which a premium falls due. However, the net level annual premium shall not exceed the net level annual premium on the 19-year premium whole life plan of insurance of the same renewal year equivalent level amount at an age one year higher than the age at issue of the policy;

(b). a net one year term premium for the benefits provided for in the first policy year;

b. the interest rates used in the present value calculations for any policy may not exceed the maximum valuation interest rate, determined with a guarantee duration equal to the length from issue to the mandatory expiration of the policy.

*Universal Life Insurance Policy*Cany individual life insurance policy under the provisions of which separately identified interest credits (other than in connection with dividend accumulations, premium deposit funds, or other supplementary accounts) and mortality or expense charges are made to the policy.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:3, 22:163, 22:168 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:2550 (October 2005).

§10909. General Calculation Requirements for Basic Reserves and PremiumDeficiency Reserves

A. At the election of the company for any one or more specified plans of life insurance, the minimum mortality standard for basic reserves may be calculated using the 1980 CSO valuation tables with select mortality factors (or any other valuation mortality table adopted by the NAIC after the effective date of this regulation and promulgated by regulation by the commissioner for this purpose). If select mortality factors are elected, they may be:

1. the 10-year select mortality factors incorporated into the 1980 amendments to the NAIC Standard Valuation Law;

2. the select mortality factors in §10915; or

3. any other table of select mortality factors adopted by the NAIC after the effective date of this regulation and promulgated by regulation by the commissioner for the purpose of calculating basic reserves.

B. Deficiency reserves, if any, are calculated for each policy as the excess, if greater than zero, of the quantity A over the basic reserve. The quantity A is obtained by recalculating the basic reserve for the policy using guaranteed gross premiums instead of net premiums when the guaranteed gross premiums are less than the corresponding net premiums. At the election of the company for any one or more specified plans of insurance, the quantity A and the corresponding net premiums used in the determination of quantity A may be based upon the 1980 CSO valuation tables with select mortality factors (or any subsequent valuation mortality table adopted by the NAIC once promulgated by regulation by the commissioner). If select mortality factors are elected, they may be:

1. the 10-year select mortality factors incorporated into the 1980 amendments to the NAIC Standard Valuation Law;

2. the select mortality factors in §10915 of this regulation;

3. for durations in the first segment, X percent of the select mortality factors in §10915, subject to the following:

a. X may vary by policy year, policy form, underwriting classification, issue age, or any other policy factor expected to affect mortality experience;

b. X shall not be less than 20 percent;

c. X shall not decrease in any successive policy years;

d. X is such that, when using the valuation interest rate used for basic reserves, Clause i is greater than or equal to Clause ii:

i. the actuarial present value of future death benefits, calculated using the mortality rates resulting from the application of X;

ii. the actuarial present value of future death benefits calculated using anticipated mortality experience without recognition of mortality improvement beyond the valuation date;

e. X is such that the mortality rates resulting from the application of X are at least as great as the anticipated mortality experience, without recognition of mortality improvement beyond the valuation date, in each of the first five years after the valuation date;

f. the appointed actuary shall increase X at any valuation date where it is necessary to continue to meet all the requirements of Paragraph B.3;

g. the appointed actuary may decrease X at any valuation date as long as X does not decrease in any successive policy years and as long as it continues to meet all the requirements of Paragraph B.3; and

h. the appointed actuary shall specifically take into account the adverse effect on expected mortality and lapsation of any anticipated or actual increase in gross premiums;

i. if X is less than 100 percent at any duration for any policy, the following requirements shall be met:

i. the appointed actuary shall annually prepare an actuarial opinion and memorandum for the company in conformance with the requirements of §2111 of Regulation 47; and

ii. the appointed actuary shall annually opine for all policies subject to this regulation as to whether the mortality rates resulting from the application of X meet the requirements of Paragraph B.3. This opinion shall be supported by an actuarial report, subject to appropriate Actuarial Standards of Practice promulgated by the Actuarial Standards Board of the American Academy of Actuaries. The X factors shall reflect anticipated future mortality, without recognition of mortality improvement beyond the valuation date, taking into account relevant emerging experience;

4. any other table of select mortality factors adopted by the NAIC after the effective date of this regulation and promulgated by regulation by the commissioner for the purpose of calculating deficiency reserves.

C. This Subsection applies to both basic reserves and deficiency reserves. Any set of select mortality factors may be used only for the first segment. However, if the first segment is less than 10 years, the appropriate 10-year select mortality factors incorporated into the 1980 amendments to the NAIC Standard Valuation Law may be used thereafter through the tenth policy year from the date of issue.

D. In determining basic reserves or deficiency reserves, guaranteed gross premiums without policy fees may be used where the calculation involves the guaranteed gross premium but only if the policy fee is a level dollar amount after the first policy year. In determining deficiency reserves, policy fees may be included in guaranteed gross premiums, even if not included in the actual calculation of basic reserves.

E. Reserves for policies that have changes to guaranteed gross premiums, guaranteed benefits, guaranteed charges, or guaranteed credits that are unilaterally made by the insurer after issue and that are effective for more than one year after the date of the change shall be the greatest of the following:

1. reserves calculated ignoring the guarantee;

2. reserves assuming the guarantee was made at issue; and

3. reserves assuming that the policy was issued on the date of the guarantee.

F. The commissioner may require that the company document the extent of the adequacy of reserves for specified blocks, including but not limited to policies issued prior to the effective date of this regulation. This documentation may include a demonstration of the extent to which aggregation with other non-specified blocks of business is relied upon in the formation of the appointed actuary opinion pursuant to and consistent with the requirements of §2111.A.2 of Regulation 47.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:3, 22:163, 22:168 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:2552 (October 2005).

§10911. Calculation of Minimum Valuation Standard for Policies with Guaranteed Nonlevel Gross Premiums or Guaranteed Nonlevel Benefits (Other than Universal Life Policies)

A. Basic Reserves. Basic reserves shall be calculated as the greater of the segmented reserves and the unitary reserves. Both the segmented reserves and the unitary reserves for any policy shall use the same valuation mortality table and selection factors. At the option of the insurer, in calculating segmented reserves and net premiums, either of the adjustments described in Paragraph 1 or 2 below may be made.

1. Treat the unitary reserve, if greater than zero, applicable at the end of each segment as a pure endowment and subtract the unitary reserve, if greater than zero, applicable at the beginning of each segment from the present value of guaranteed life insurance and endowment benefits for each segment.

2. Treat the guaranteed cash surrender value, if greater than zero, applicable at the end of each segment as a pure endowment; and subtract the guaranteed cash surrender value, if greater than zero, applicable at the beginning of each segment from the present value of guaranteed life insurance and endowment benefits for each segment.

B. Deficiency Reserves

1. The deficiency reserve at any duration shall be calculated:

a. on a unitary basis if the corresponding basic reserve determined by Subsection A is unitary;

b. on a segmented basis if the corresponding basic reserve determined by Subsection A is segmented; or

c. on the segmented basis if the corresponding basic reserve determined by Subsection A is equal to both the segmented reserve and the unitary reserve.

2. This Subsection shall apply to any policy for which the guaranteed gross premium at any duration is less than the corresponding modified net premium calculated by the method used in determining the basic reserves, but using the minimum valuation standards of mortality (specified in §10909.B) and rate of interest.

3. Deficiency reserves, if any, shall be calculated for each policy as the excess if greater than zero, for the current and all remaining periods, of the quantity A over the basic reserve, where A is obtained as indicated in §10909.B.

4. For deficiency reserves determined on a segmented basis, the quantity A is determined using segment lengths equal to those determined for segmented basic reserves.

C. Minimum Value. Basic reserves may not be less than the tabular cost of insurance for the balance of the policy year, if mean reserves are used. Basic reserves may not be less than the tabular cost of insurance for the balance of the current modal period or to the paid-to-date, if later, but not beyond the next policy anniversary, if mid-terminal reserves are used. The tabular cost of insurance shall use the same valuation mortality table and interest rates as that used for the calculation of the segmented reserves. However, if select mortality factors are used, they shall be the 10-year select factors incorporated into the 1980 amendments of the NAIC Standard Valuation Law. In no case may total reserves (including basic reserves, deficiency reserves and any reserves held for supplemental benefits that would expire upon contract termination) be less than the amount that the policy-owner would receive (including the cash surrender value of the supplemental benefits, if any, referred to above), exclusive of any deduction for policy loans, upon termination of the policy.

D. Unusual Pattern of Guaranteed Cash Surrender Values

1. For any policy with an unusual pattern of guaranteed cash surrender values, the reserves actually held prior to the first unusual guaranteed cash surrender value shall not be less than the reserves calculated by treating the first unusual guaranteed cash surrender value as a pure endowment and treating the policy as an *n* year policy providing term insurance plus a pure endowment equal to the unusual cash surrender value, where *n* is the number of years from the date of issue to the date the unusual cash surrender value is scheduled.

2. The reserves actually held subsequent to any unusual guaranteed cash surrender value shall not be less than the reserves calculated by treating the policy as an *n* year policy providing term insurance plus a pure endowment equal to the next unusual guaranteed cash surrender value, and treating any unusual guaranteed cash surrender value at the end of the prior segment as a net single premium, where:

a. *n* is the number of years from the date of the last unusual guaranteed cash surrender value prior to the valuation date to the earlier of:

i. the date of the next unusual guaranteed cash surrender value, if any, that is scheduled after the valuation date; or

ii. the mandatory expiration date of the policy; and

b. the net premium for a given year during the *n* year period is equal to the product of the net to gross ratio and the respective gross premium; and

c. the net to gross ratio is equal to Clause i divided by Clause ii as follows:

i. the present value, at the beginning of the *n* year period, of death benefits payable during the *n* year period plus the present value, at the beginning of the n year period, of the next unusual guaranteed cash surrender value, if any, minus the amount of the last unusual guaranteed cash surrender value, if any, scheduled at the beginning of the *n* year period;

ii. the present value, at the beginning of the *n* year period, of the scheduled gross premiums payable during the *n* year period.

3. For purposes of this Subsection, a policy is considered to have an unusual pattern of guaranteed cash surrender values if any future guaranteed cash surrender value exceeds the prior year's guaranteed cash surrender value by more than the sum of:

a. one hundred ten percent of the scheduled gross premium for that year;

b. one hundred ten percent of one year's accrued interest on the sum of the prior year's guaranteed cash surrender value and the scheduled gross premium using the nonforfeiture interest rate used for calculating policy guaranteed cash surrender values; and

c. five percent of the first policy year surrender charge, if any.

E. Optional Exemption for Yearly Renewable Term Reinsurance. At the option of the company, the following approach for reserves on YRT reinsurance may be used.

1. Calculate the valuation net premium for each future policy year as the tabular cost of insurance for that future year.

2. Basic reserves shall never be less than the tabular cost of insurance for the appropriate period, as defined in Subsection C.

3. Deficiency Reserves

a. For each policy year, calculate the excess, if greater than zero, of the valuation net premium over the respective maximum guaranteed gross premium.

b. Deficiency reserves shall never be less than the sum of the present values, at the date of valuation, of the excesses determined in accordance with Subparagraph a above.

4. For purposes of this subsection, the calculations use the maximum valuation interest rate and the 1980 CSO mortality tables with or without 10-year select mortality factors, or any other table adopted after the effective date of this regulation by the NAIC and promulgated by regulation by the commissioner for this purpose.

5. A reinsurance agreement shall be considered YRT reinsurance for purposes of this subsection if only the mortality risk is reinsured.

6. If the assuming company chooses this optional exemption, the ceding company's reinsurance reserve credit shall be limited to the amount of reserve held by the assuming company for the affected policies.

F. Optional Exemption for Attained-Age-Based Yearly Renewable Term Life Insurance Policies. At the option of the company, the following approach for reserves for attained-age-based YRT life insurance policies may be used.

1. Calculate the valuation net premium for each future policy year as the tabular cost of insurance for that future year.

2. Basic reserves shall never be less than the tabular cost of insurance for the appropriate period, as defined in §10911.C.

3. Deficiency Reserves

a. For each policy year, calculate the excess, if greater than zero, of the valuation net premium over the respective maximum guaranteed gross premium.

b. Deficiency reserves shall never be less than the sum of the present values, at the date of valuation, of the excesses determined in accordance with Subparagraph a above.

4. For purposes of this subsection, the calculations use the maximum valuation interest rate and the 1980 CSO valuation tables with or without 10-year select mortality factors, or any other table adopted after the effective date of this regulation by the NAIC and promulgated by regulation by the commissioner for this purpose.

5. A policy shall be considered an attained-age-based YRT life insurance policy for purposes of this subsection if:

a. the premium rates (on both the initial current premium scale and the guaranteed maximum premium scale) are based upon the attained age of the insured such that the rate for any given policy at a given attained age of the insured is independent of the year the policy was issued; and

b. the premium rates (on both the initial current premium scale and the guaranteed maximum premium scale) are the same as the premium rates for policies covering all insureds of the same sex, risk class, plan of insurance and attained age.

6. For policies that become attained-age-based YRT policies after an initial period of coverage, the approach of this subsection may be used after the initial period if:

a. the initial period is constant for all insureds of the same sex, risk class and plan of insurance; or

b. the initial period runs to a common attained age for all insureds of the same sex, risk class and plan of insurance; and

c. after the initial period of coverage, the policy meets the conditions of Paragraph 5 above.

7. If this election is made, this approach shall be applied in determining reserves for all attained-age-based YRT life insurance policies issued on or after the effective date of this regulation.

G. Exemption from Unitary Reserves for Certain *n*-Year Renewable Term Life Insurance Polices. Unitary basic

reserves and unitary deficiency reserves need not be calculated for a policy if the following conditions are met:

1. the policy consists of a series of *n*-year periods, including the first period and all renewal periods, where *n* is the same for each period, except that for the final renewal period, n may be truncated or extended to reach the expiry age, provided that this final renewal period is less than 10 years and less than twice the size of the earlier n-year periods, and for each period, the premium rates on both the initial current premium scale and the guaranteed maximum premium scale are level;

2. the guaranteed gross premiums in all *n*-year periods are not less than the corresponding net premiums based upon the 1980 CSO Table with or without the 10-year select mortality factors; and

3. there are no cash surrender values in any policy year.

H. Exemption from Unitary Reserves for Certain Juvenile Policies. Unitary basic reserves and unitary deficiency reserves need not be calculated for a policy if the following conditions are met, based upon the initial current premium scale at issue:

1. at issue, the insured is age 24 or younger;

2. until the insured reaches the end of the juvenile period, which shall occur at or before age 25, the gross premiums and death benefits are level, and there are no cash surrender values; and

3. after the end of the juvenile period, gross premiums are level for the remainder of the premium paying period, and death benefits are level for the remainder of the life of the policy.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:3, 22:163, 22:168 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:2553 (October 2005).

§10913. Calculation of Minimum Valuation Standard for Flexible Premium and Fixed Premium Universal Life Insurance Policies that Contain Provisions Resulting in the Ability of a Policy owner to Keep a Policy in Force over a Secondary Guarantee Period

A. General

1. Policies with a secondary guarantee include:

a. a policy with a guarantee that the policy will remain in force at the original schedule of benefits, subject only to the payment of specified premiums;

b. a policy in which the minimum premium at any duration is less than the corresponding one year valuation premium, calculated using the maximum valuation interest rate and the 1980 CSO valuation tables with or without 10-year select mortality factors, or any other table adopted after the effective date of this regulation by the NAIC and promulgated by regulation by the commissioner for this purpose; or

c. a policy with any combination of Subparagraph a and b.

2. A secondary guarantee period is the period for which the policy is guaranteed to remain in force subject only to a secondary guarantee. When a policy contains more than one secondary guarantee, the minimum reserve shall be the greatest of the respective minimum reserves at that valuation date of each unexpired secondary guarantee, ignoring all other secondary guarantees. Secondary guarantees that are unilaterally changed by the insurer after issue shall be considered to have been made at issue. Reserves described in Subsections B and C below shall be recalculated from issue to reflect these changes.

3. Specified premiums mean the premiums specified in the policy, the payment of which guarantees that the policy will remain in force at the original schedule of benefits, but which otherwise would be insufficient to keep the policy in force in the absence of the guarantee if maximum mortality and expense charges and minimum interest credits were made and any applicable surrender charges were assessed.

4. For purposes of this Section, the minimum premium for any policy year is the premium that, when paid into a policy with a zero account value at the beginning of the policy year, produces a zero account value at the end of the policy year. The minimum premium calculation shall use the policy cost factors (including mortality charges, loads and expense charges) and the interest crediting rate, which are all guaranteed at issue.

5. The one-year valuation premium means the net one-year premium based upon the original schedule of benefits for a given policy year. The one-year valuation premiums for all policy years are calculated at issue. The select mortality factors defined in §10909.B.2, 3, and 4 may not be used to calculate the one-year valuation premiums.

6. The one-year valuation premium should reflect the frequency of fund processing, as well as the distribution of deaths assumption employed in the calculation of the monthly mortality charges to the fund.

B. Basic Reserves for the Secondary Guarantees. Basic reserves for the secondary guarantees shall be the segmented reserves for the secondary guarantee period. In calculating the segments and the segmented reserves, the gross premiums shall be set equal to the specified premiums, if any, or otherwise to the minimum premiums, that keep the policy in force and the segments will be determined according to the *contract segmentation method* as defined in §10907.

C. Deficiency Reserves for the Secondary Guarantees. Deficiency reserves, if any, for the secondary guarantees shall be calculated for the secondary guarantee period in the same manner as described in §10911.B with gross premiums set equal to the specified premiums, if any, or otherwise to the minimum premiums that keep the policy in force.

D. Minimum Reserves. The minimum reserves during the secondary guarantee period are the greater of:

1. the basic reserves for the secondary guarantee plus the deficiency reserve, if any, for the secondary guarantees; or

2. the minimum reserves required by other rules or regulations governing universal life plans.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:3, 22:163, 22:168 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:2555 (October 2005).

§10915. Select Mortality FactorsCAppendix

A. This appendix contains tables of select mortality factors that are the bases to which the respective percentage of §§10909.A2, 10909.B.2 and 10909.B.3 are applied.

B. The six tables of select mortality factors contained herein include:

1. male aggregate;
2. male nonsmoker;
3. male smoker;
4. female aggregate;
5. female nonsmoker; and
6. female smoker.

C. These tables apply to both age last birthday and age nearest birthday mortality tables.

D. For sex-blended mortality tables, compute select mortality factors in the same proportion as the underlying mortality. For example, for the 1980 CSO-B Table, the calculated select mortality factors are 80 percent of the appropriate male table in this Appendix, plus 20 percent of the appropriate female table in this Appendix.

Select Mortality Factors

Male, Aggregate																				
Issue	Duration																			
Age	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20+
0-15	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
16	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
17	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
18	96	98	98	99	99	100	100	90	92	92	92	92	93	93	96	97	98	98	99	100
19	83	84	84	87	87	87	79	79	79	81	81	82	82	82	85	88	91	94	97	100
20	69	71	71	74	74	69	69	67	69	70	71	71	71	71	74	79	84	90	95	100
21	66	68	69	71	66	66	67	66	67	70	70	70	70	71	71	77	83	88	94	100
22	65	66	66	63	63	64	64	64	65	68	68	68	68	69	71	77	83	88	94	100
23	62	63	59	60	62	62	63	63	64	65	65	67	67	69	70	76	82	88	94	100
24	60	56	56	59	59	60	61	61	61	64	64	64	66	67	70	76	82	88	94	100
25	52	53	55	56	58	58	60	60	60	63	62	63	64	67	69	75	81	88	94	100
26	51	52	55	56	58	58	57	61	61	62	63	64	66	69	66	73	80	86	93	100
27	51	52	55	57	58	60	61	61	60	63	63	64	67	66	67	74	80	87	93	100
28	49	51	56	58	60	60	61	62	62	63	64	66	65	66	68	74	81	87	94	100
29	49	51	56	58	60	61	62	62	62	64	64	62	66	67	70	76	82	88	94	100
30	49	50	56	58	60	60	62	63	63	64	62	63	67	68	71	77	83	88	94	100
31	47	50	56	58	60	62	63	64	64	62	63	66	68	70	72	78	83	89	94	100
32	46	49	56	59	60	62	63	66	62	63	66	67	70	72	73	78	84	89	95	100
33	43	49	56	59	62	63	64	62	65	66	67	70	72	73	75	80	85	90	95	100
34	42	47	56	60	62	63	61	63	66	67	70	71	73	75	76	81	86	90	95	100
35	40	47	56	60	63	61	62	65	67	68	71	73	74	76	76	81	86	90	95	100
36	38	42	56	60	59	61	63	65	67	68	70	72	74	76	77	82	86	91	95	100
37	38	45	56	57	61	62	63	65	67	68	70	72	74	76	76	81	86	90	95	100
38	37	44	53	58	61	62	65	66	67	69	69	73	75	76	77	82	86	91	95	100
39	37	41	53	58	62	63	65	65	66	68	69	72	74	76	76	81	86	90	95	100
40	34	40	53	58	62	63	65	65	66	68	68	71	75	76	77	82	86	91	95	100

Male, Aggregate																				
Issue	Duration																			
Age	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20+
41	34	41	53	58	62	63	65	64	64	66	68	70	74	76	77	82	86	91	95	100
42	34	43	53	58	61	62	63	63	63	64	66	69	72	75	77	82	86	91	95	100
43	34	43	54	59	60	61	63	62	62	64	66	67	72	74	77	82	86	91	95	100
44	34	44	54	58	59	60	61	60	61	62	64	67	71	74	77	82	86	91	95	100
45	34	45	53	58	59	60	60	60	59	60	63	66	71	74	77	82	86	91	95	100
46	31	43	52	56	57	58	59	59	59	60	63	67	71	74	75	80	85	90	95	100

Male, Aggregate																				
Issue	**Duration**																			
47	32	42	50	53	55	56	57	58	59	60	65	68	71	74	75	80	85	90	95	100
48	32	41	47	52	54	56	57	57	57	61	65	68	72	73	74	79	84	90	95	100
49	30	40	46	49	52	54	55	56	57	61	66	69	72	73	74	79	84	90	95	100
50	30	38	44	47	51	53	54	56	57	61	66	71	72	73	75	80	85	90	95	100
51	28	37	42	46	49	53	54	56	57	61	66	71	72	73	75	80	85	90	95	100
52	28	35	41	45	49	51	54	56	57	61	66	71	72	74	75	80	85	90	100	100
53	27	35	39	44	48	51	53	55	57	61	67	71	74	75	76	81	86	100	100	100
54	27	33	38	44	48	50	53	55	57	61	67	72	74	75	76	81	100	100	100	100
55	25	32	37	43	47	50	53	55	57	61	68	72	74	75	78	100	100	100	100	100
56	25	32	37	43	47	49	51	54	56	61	67	70	73	74	100	100	100	100	100	100
57	24	31	38	43	47	49	51	54	56	59	66	69	72	100	100	100	100	100	100	100
58	24	31	38	43	48	48	50	53	56	59	64	67	100	100	100	100	100	100	100	100
59	23	30	39	43	48	48	51	53	55	58	63	100	100	100	100	100	100	100	100	100
60	23	30	39	43	48	47	50	52	53	57	100	100	100	100	100	100	100	100	100	100
61	23	30	39	43	49	49	50	52	53	75	100	100	100	100	100	100	100	100	100	100
62	23	30	39	44	49	49	51	52	75	75	100	100	100	100	100	100	100	100	100	100
63	22	30	39	45	50	50	52	75	75	75	100	100	100	100	100	100	100	100	100	100
64	22	30	39	45	50	51	75	75	75	75	100	100	100	100	100	100	100	100	100	100
65	22	30	39	45	50	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
66	22	30	39	45	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
67	22	30	39	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
68	23	32	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
69	23	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
70	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100

Male, Aggregate																				
Issue	**Duration**																			
Age	**1**	**2**	**3**	**4**	**5**	**6**	**7**	**8**	**9**	**10**	**11**	**12**	**13**	**14**	**15**	**16**	**17**	**18**	**19**	**20+**
71	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
72	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
73	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
74	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
75	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
76	48	52	55	60	60	65	70	70	70	100	100	100	100	100	100	100	100	100	100	100
77	48	52	55	60	60	65	70	70	100	100	100	100	100	100	100	100	100	100	100	100
78	48	52	55	60	60	65	70	100	100	100	100	100	100	100	100	100	100	100	100	100
79	48	52	55	60	60	65	100	100	100	100	100	100	100	100	100	100	100	100	100	100
80	48	52	55	60	60	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
81	48	52	55	60	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
82	48	52	55	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
83	48	52	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
84	48	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
85+	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

Male, Non-Smoker																				
Issue	Duration																			
Age	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20+
0-15	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
16	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
17	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
18	93	95	96	98	99	100	100	90	92	92	92	92	95	95	96	97	98	98	99	100
19	80	81	83	86	87	87	79	79	79	81	81	82	83	83	86	89	92	94	97	100
20	65	68	69	72	74	69	69	67	69	70	71	71	72	72	75	80	85	90	95	100
21	63	66	68	71	66	66	67	66	67	70	70	70	71	71	73	78	84	89	95	100
22	62	65	66	62	63	64	64	64	67	68	68	68	70	70	73	78	84	89	95	100
23	60	62	58	60	62	62	63	63	64	67	68	68	67	69	71	77	83	88	94	100
24	59	55	56	58	59	60	61	61	63	65	67	66	66	69	71	77	83	88	94	100
25	52	53	55	56	58	58	60	60	61	64	64	64	64	67	70	76	82	88	94	100
26	51	53	55	56	58	60	61	61	61	63	64	64	66	69	67	74	80	87	93	100
27	51	52	55	58	60	60	61	61	62	63	64	66	67	66	67	74	80	87	93	100
28	49	52	57	58	60	61	63	62	62	64	66	66	63	66	68	74	81	87	94	100
29	49	51	57	60	61	61	62	62	63	64	66	63	65	67	68	74	81	87	94	100
30	49	51	57	60	61	62	63	63	63	64	62	63	66	68	70	76	82	88	94	100
31	47	50	57	60	60	62	63	64	64	62	63	65	67	70	71	77	83	88	94	100
32	46	50	57	60	62	63	64	64	62	63	65	66	68	71	72	78	83	89	94	100
33	45	49	56	60	62	63	64	62	63	65	66	68	71	73	74	79	84	90	95	100
34	43	48	56	62	63	64	62	62	65	66	67	70	72	74	74	79	84	90	95	100
35	41	47	56	62	63	61	62	63	66	67	68	70	72	74	75	80	85	90	95	100
36	40	47	56	62	59	61	62	63	66	67	68	70	72	74	75	80	85	90	95	100
37	38	45	56	58	59	61	62	63	66	67	67	69	71	73	74	79	84	90	95	100
38	38	45	53	58	61	62	63	65	65	67	68	70	72	74	73	78	84	89	95	100
39	37	41	53	58	61	62	63	64	65	67	68	70	71	73	73	78	84	89	95	100
40	34	41	53	58	61	62	63	64	64	66	67	69	71	73	72	78	83	89	94	100

Male, Non-Smoker																				
Issue	Duration																			
Age	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20+
41	34	41	53	58	61	61	62	62	63	65	65	67	69	71	71	77	83	88	94	100
42	34	43	53	58	60	61	62	61	61	63	64	66	67	69	71	77	83	88	94	100
43	32	43	53	58	60	61	60	60	60	60	62	64	66	68	69	75	81	88	94	100
44	32	44	52	57	59	60	60	59	59	58	60	62	65	67	69	75	81	88	94	100
45	32	44	52	57	59	60	59	57	57	57	59	61	63	66	68	74	81	87	94	100
46	32	42	50	54	56	57	57	56	55	56	59	61	63	65	67	74	80	87	93	100
47	30	40	48	52	54	55	55	54	54	55	59	61	62	63	66	73	80	86	93	100
48	30	40	46	49	51	52	53	53	54	55	57	61	62	63	63	70	78	85	93	100
49	29	39	43	48	50	51	50	51	53	54	57	61	61	62	62	70	77	85	92	100
50	29	37	42	45	47	48	49	50	51	54	57	61	61	61	61	69	77	84	92	100
51	27	35	40	43	45	47	48	50	51	53	57	60	61	61	62	70	77	85	92	100
52	27	34	39	42	44	45	48	49	50	53	56	60	60	62	62	70	77	85	100	100
53	25	31	37	41	44	45	47	49	50	51	56	59	61	61	62	70	77	100	100	100
54	25	30	36	39	43	44	47	48	49	51	55	59	59	61	62	70	100	100	100	100
55	24	29	35	38	42	43	45	48	49	50	56	58	59	61	62	100	100	100	100	100
56	23	29	35	38	42	42	44	47	48	50	55	57	58	59	100	100	100	100	100	100
57	23	28	35	38	42	42	43	45	47	49	53	55	56	100	100	100	100	100	100	100
58	22	28	33	37	41	41	43	45	45	47	51	53	100	100	100	100	100	100	100	100
59	22	26	33	37	41	41	42	44	44	46	50	100	100	100	100	100	100	100	100	100

Male, Non-Smoker																				
Issue	**Duration**																			
60	20	26	33	37	41	40	41	42	42	45	100	100	100	100	100	100	100	100	100	100
61	20	26	33	37	41	40	41	42	42	75	100	100	100	100	100	100	100	100	100	100
62	19	25	32	38	40	40	41	42	75	75	100	100	100	100	100	100	100	100	100	100
63	19	25	33	36	40	40	41	75	75	75	100	100	100	100	100	100	100	100	100	100
64	18	24	32	36	39	40	75	75	75	75	100	100	100	100	100	100	100	100	100	100
65	18	24	32	36	39	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
66	18	24	32	36	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
67	18	24	32	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
68	18	24	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
69	18	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
70	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100

Male, Non-Smoker																				
Issue	**Duration**																			
Age	**1**	**2**	**3**	**4**	**5**	**6**	**7**	**8**	**9**	**10**	**11**	**12**	**13**	**14**	**15**	**16**	**17**	**18**	**19**	**20+**
71	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
72	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
73	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
74	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
75	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
76	48	52	55	60	60	65	70	70	70	100	100	100	100	100	100	100	100	100	100	100
77	48	52	55	60	60	65	70	70	100	100	100	100	100	100	100	100	100	100	100	100
78	48	52	55	60	60	65	70	100	100	100	100	100	100	100	100	100	100	100	100	100
79	48	52	55	60	60	65	100	100	100	100	100	100	100	100	100	100	100	100	100	100
80	48	52	55	60	60	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
81	48	52	55	60	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
82	48	52	55	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
83	48	52	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
84	48	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
85+	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

Male, Smoker																				
Issue	**Duration**																			
Age	**1**	**2**	**3**	**4**	**5**	**6**	**7**	**8**	**9**	**10**	**11**	**12**	**13**	**14**	**15**	**16**	**17**	**18**	**19**	**20+**
0-15	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
16	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
17	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
18	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
19	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
20	98	100	100	100	100	100	100	99	99	99	100	99	99	99	100	100	100	100	100	100
21	95	98	99	100	95	96	96	95	96	97	97	96	96	96	96	97	98	98	99	100
22	92	95	96	90	90	93	93	92	93	95	95	93	93	92	93	94	96	97	99	100
23	90	92	85	88	88	89	89	89	90	90	90	90	89	90	92	94	95	97	98	100
24	87	81	82	85	84	86	88	86	86	88	88	86	86	88	89	91	93	96	98	100
25	77	78	79	82	81	83	83	82	83	85	84	84	84	85	86	89	92	94	97	100
26	75	77	79	82	82	83	83	82	83	84	84	84	84	85	81	85	89	92	96	100
27	73	75	78	82	82	83	83	82	82	82	82	84	84	80	81	85	89	92	96	100
28	71	73	79	82	81	82	83	81	81	82	82	82	80	80	81	85	89	92	96	100

Male, Smoker																				
Issue	**Duration**																			
29	69	72	78	81	81	82	82	81	81	81	81	77	80	80	81	85	89	92	96	100
30	68	71	78	81	81	81	82	81	81	81	76	77	80	80	81	85	89	92	96	100
31	65	70	77	81	79	81	82	81	81	76	77	79	81	81	83	86	90	93	97	100
32	63	67	77	78	79	81	81	81	76	77	77	80	83	83	85	88	91	94	97	100
33	60	65	74	78	79	79	81	76	77	77	79	80	83	85	85	88	91	94	97	100
34	57	62	74	77	79	79	75	76	77	79	79	81	83	85	87	90	92	95	97	100
35	53	60	73	77	79	75	75	76	77	79	80	82	84	86	88	90	93	95	98	100
36	52	59	71	75	74	75	75	76	77	79	79	81	83	85	87	90	92	95	97	100
37	49	58	70	71	74	74	75	76	77	78	79	81	84	86	86	89	92	94	97	100
38	48	55	66	70	72	74	74	75	76	78	79	81	83	85	87	90	92	95	97	100
39	45	50	65	70	72	72	74	74	75	77	79	81	84	86	86	89	92	94	97	100
40	41	49	63	68	71	72	73	74	74	76	78	80	83	85	86	89	92	94	97	100

Male, Smoker																				
Issue	**Duration**																			
Age	**1**	**2**	**3**	**4**	**5**	**6**	**7**	**8**	**9**	**10**	**11**	**12**	**13**	**14**	**15**	**16**	**17**	**18**	**19**	**20+**
41	40	49	63	68	71	72	72	72	73	75	76	78	81	84	85	88	91	94	97	100
42	40	49	62	68	70	71	71	71	71	73	75	76	81	83	85	88	91	94	97	100
43	39	50	62	67	69	69	70	70	70	71	73	76	79	83	85	88	91	94	97	100
44	39	50	60	66	68	69	68	69	69	69	71	74	79	81	85	88	91	94	97	100
45	37	50	60	66	68	68	68	67	67	67	69	73	78	81	85	88	91	94	97	100
46	37	48	58	63	65	67	66	66	66	67	71	74	78	81	84	87	90	94	97	100
47	36	47	55	61	63	64	64	64	65	67	71	75	79	81	84	87	90	94	97	100
48	35	46	53	58	60	62	63	63	65	67	72	75	79	81	83	86	90	93	97	100
49	34	45	51	56	58	59	61	62	63	67	72	77	80	81	83	86	90	93	97	100
50	34	43	49	53	55	57	60	61	63	67	73	78	80	81	81	85	89	92	96	100
51	32	42	47	52	55	57	60	61	63	67	73	78	80	83	84	87	90	94	97	100
52	32	40	46	50	54	56	60	61	63	67	73	78	81	84	85	88	91	94	100	100
53	30	37	44	49	54	56	59	61	65	67	74	79	83	85	87	90	92	100	100	100
54	30	36	43	48	53	55	59	61	65	67	74	80	84	85	89	91	100	100	100	100
55	29	35	42	47	53	55	59	61	65	67	75	80	84	86	90	100	100	100	100	100
56	28	35	42	47	53	55	57	60	63	68	74	79	83	85	100	100	100	100	100	100
57	28	35	42	47	53	54	57	60	64	67	74	78	81	100	100	100	100	100	100	100
58	26	33	43	48	54	54	56	59	63	67	73	78	100	100	100	100	100	100	100	100
59	26	33	43	48	54	53	57	59	63	66	73	100	100	100	100	100	100	100	100	100
60	25	33	43	48	54	53	56	58	62	66	100	100	100	100	100	100	100	100	100	100
61	25	33	43	49	55	55	57	59	63	75	100	100	100	100	100	100	100	100	100	100
62	25	33	43	50	56	56	58	61	75	75	100	100	100	100	100	100	100	100	100	100
63	24	33	45	51	56	56	59	75	75	75	100	100	100	100	100	100	100	100	100	100
64	24	34	45	51	57	57	75	75	75	75	100	100	100	100	100	100	100	100	100	100
65	24	34	45	52	57	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
66	24	35	45	53	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
67	25	35	45	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
68	25	36	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
69	27	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
70	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100

Male, Smoker																				
Issue	**Duration**																			
Age	**1**	**2**	**3**	**4**	**5**	**6**	**7**	**8**	**9**	**10**	**11**	**12**	**13**	**14**	**15**	**16**	**17**	**18**	**19**	**20+**
71	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
72	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
73	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
74	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
75	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
76	48	52	55	60	60	65	70	70	70	100	100	100	100	100	100	100	100	100	100	100
77	48	52	55	60	60	65	70	70	100	100	100	100	100	100	100	100	100	100	100	100
78	48	52	55	60	60	65	70	100	100	100	100	100	100	100	100	100	100	100	100	100
79	48	52	55	60	60	65	100	100	100	100	100	100	100	100	100	100	100	100	100	100
80	48	52	55	60	60	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
81	48	52	55	60	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
82	48	52	55	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
83	48	52	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
84	48	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
85+	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

Female, Aggregate																				
Issue	**Duration**																			
Age	**1**	**2**	**3**	**4**	**5**	**6**	**7**	**8**	**9**	**10**	**11**	**12**	**13**	**14**	**15**	**16**	**17**	**18**	**19**	**20+**
0-15	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
16	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
17	99	100	100	100	100	100	100	100	93	95	96	97	97	100	100	100	100	100	100	100
18	83	83	84	84	84	84	86	78	78	79	82	84	85	88	88	90	93	95	98	100
19	65	66	68	68	68	68	63	63	64	66	69	71	72	74	75	80	85	90	95	100
20	48	50	51	51	51	47	48	48	49	51	56	57	58	61	63	70	78	85	93	100
21	47	48	50	51	47	47	48	49	51	53	57	60	61	64	64	71	78	86	93	100
22	44	47	48	45	47	47	48	49	53	54	60	61	63	64	66	73	80	86	93	100
23	42	45	44	45	47	47	49	51	53	54	61	64	64	67	69	75	81	88	94	100
24	39	40	42	44	47	47	50	51	54	56	64	64	66	69	70	76	82	88	94	100
25	34	38	41	44	47	47	50	53	56	57	64	67	69	71	73	78	84	89	95	100
26	34	38	41	45	49	49	51	56	58	59	66	69	70	73	70	76	82	88	94	100
27	34	38	41	47	50	51	54	57	59	60	69	70	73	70	71	77	83	88	94	100
28	34	37	43	47	53	53	56	59	62	63	70	73	70	72	74	79	84	90	95	100
29	34	38	43	49	54	56	58	60	63	64	73	70	72	74	75	80	85	90	95	100
30	35	38	43	50	56	56	59	63	66	67	70	71	74	75	76	81	86	90	95	100
31	35	38	43	51	56	58	60	64	67	65	71	72	74	75	76	81	86	90	95	100
32	35	39	45	51	56	59	63	66	65	66	72	72	75	76	76	81	86	90	95	100
33	36	39	44	52	58	62	64	65	66	67	72	74	75	76	76	81	86	90	95	100
34	36	40	45	52	58	63	63	66	67	68	74	74	76	76	76	81	86	90	95	100
35	36	40	45	53	59	61	65	67	68	70	75	74	75	76	75	80	85	90	95	100
36	36	40	45	53	55	62	65	67	68	70	74	74	74	75	75	80	85	90	95	100
37	36	41	47	52	57	62	65	67	68	69	72	72	73	75	74	79	84	90	95	100
38	34	41	44	52	57	63	66	68	69	70	72	71	72	74	75	80	85	90	95	100
39	34	40	45	53	58	63	66	68	69	69	70	70	70	73	74	79	84	90	95	100
40	32	40	45	53	58	65	65	67	68	69	70	69	70	73	73	78	84	89	95	100

Female, Aggregate																				
Issue	**Duration**																			
Age	**1**	**2**	**3**	**4**	**5**	**6**	**7**	**8**	**9**	**10**	**11**	**12**	**13**	**14**	**15**	**16**	**17**	**18**	**19**	**20+**
41	32	40	45	53	57	63	64	67	68	68	69	69	69	73	74	79	84	90	95	100
42	32	40	45	52	56	61	63	65	66	68	69	68	70	74	75	80	85	90	95	100
43	31	39	45	51	55	59	61	65	65	66	68	69	69	74	77	82	86	91	95	100
44	31	39	45	50	54	58	61	63	64	66	67	68	71	75	78	82	87	91	96	100
45	31	38	44	49	53	56	59	62	63	65	67	68	71	77	79	83	87	92	96	100
46	29	37	43	48	51	54	59	62	63	65	67	69	71	77	78	82	87	91	96	100
47	28	35	41	46	49	54	57	61	62	66	68	69	71	77	77	82	86	91	95	100
48	28	35	41	44	49	52	57	61	63	66	68	71	72	75	77	82	86	91	95	100
49	26	34	39	43	47	52	55	61	63	67	69	71	72	75	75	80	85	90	95	100
50	25	32	38	41	46	50	55	61	63	67	69	72	72	75	74	79	84	90	95	100
51	25	32	38	41	45	50	55	61	63	66	68	69	71	74	74	79	84	90	95	100
52	23	30	36	41	45	51	56	61	62	65	66	68	68	73	73	78	84	89	100	100
53	23	30	36	41	47	51	56	61	62	63	65	66	68	72	72	78	83	100	100	100
54	22	29	35	41	47	53	57	61	61	62	62	66	66	69	70	76	100	100	100	100
55	22	29	35	41	47	53	57	61	61	61	62	63	64	68	69	100	100	100	100	100
56	22	29	35	41	45	51	56	59	60	61	62	63	64	67	100	100	100	100	100	100
57	22	29	35	41	45	50	54	56	58	59	61	62	63	100	100	100	100	100	100	100
58	22	30	36	41	44	49	53	56	57	57	61	62	100	100	100	100	100	100	100	100
59	22	30	36	41	44	48	51	53	55	56	59	100	100	100	100	100	100	100	100	100
60	22	30	36	41	43	47	50	51	53	55	100	100	100	100	100	100	100	100	100	100
61	22	29	35	39	42	46	49	50	52	80	100	100	100	100	100	100	100	100	100	100
62	20	28	33	39	41	45	47	49	80	80	100	100	100	100	100	100	100	100	100	100
63	20	28	33	38	41	44	46	80	80	80	100	100	100	100	100	100	100	100	100	100
64	19	27	32	36	40	42	80	80	80	80	100	100	100	100	100	100	100	100	100	100
65	19	25	30	35	39	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
66	19	25	30	35	72	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
67	19	25	30	72	72	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
68	19	25	68	72	72	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
69	19	64	68	72	72	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
70	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100

Female, Aggregate																				
Issue	**Duration**																			
Age	**1**	**2**	**3**	**4**	**5**	**6**	**7**	**8**	**9**	**10**	**11**	**12**	**13**	**14**	**15**	**16**	**17**	**18**	**19**	**20+**
71	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
72	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
73	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
74	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
75	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
76	60	60	64	68	68	72	75	75	80	100	100	100	100	100	100	100	100	100	100	100
77	60	60	64	68	68	72	75	75	100	100	100	100	100	100	100	100	100	100	100	100
78	60	60	64	68	68	72	75	100	100	100	100	100	100	100	100	100	100	100	100	100
79	60	60	64	68	68	72	100	100	100	100	100	100	100	100	100	100	100	100	100	100
80	60	60	64	68	68	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
81	60	60	64	68	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
82	60	60	64	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
83	60	60	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

Female, Aggregate																				
Issue	**Duration**																			
84	60	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
85+	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

Female, Non-Smoker																				
Issue	**Duration**																			
Age	**1**	**2**	**3**	**4**	**5**	**6**	**7**	**8**	**9**	**10**	**11**	**12**	**13**	**14**	**15**	**16**	**17**	**18**	**19**	**20+**
0-15	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
16	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
17	96	98	98	98	98	99	99	99	92	92	93	95	95	97	99	99	99	100	100	100
18	78	80	80	80	80	81	81	74	75	75	78	79	82	83	85	88	91	94	97	100
19	60	62	63	63	63	65	59	59	60	60	64	67	67	70	72	78	83	89	94	100
20	42	44	45	45	45	42	42	42	45	45	50	51	53	56	58	66	75	83	92	100
21	41	42	44	45	41	42	42	44	47	47	51	53	54	57	59	67	75	84	92	100
22	39	41	44	41	41	42	44	45	49	49	54	56	57	58	60	68	76	84	92	100
23	38	41	38	40	41	42	44	46	49	50	56	57	58	60	62	70	77	85	92	100
24	36	36	38	40	41	42	46	47	50	51	58	59	60	62	63	70	78	85	93	100
25	32	34	37	40	41	43	46	49	51	53	59	60	62	63	64	71	78	86	93	100
26	32	34	37	41	43	45	47	50	53	53	60	62	63	64	62	70	77	85	92	100
27	32	34	38	43	46	47	49	51	53	55	62	63	64	62	62	70	77	85	92	100
28	30	34	39	43	47	49	51	53	56	58	63	63	61	62	63	70	78	85	93	100
29	30	35	40	45	50	51	52	55	58	59	64	61	62	63	63	70	78	85	93	100
30	31	35	40	46	51	52	53	56	59	60	62	62	63	65	65	72	79	86	93	100
31	31	35	40	46	51	53	55	58	60	58	62	62	63	65	65	72	79	86	93	100
32	32	35	40	45	51	53	56	59	57	58	62	63	63	65	64	71	78	86	93	100
33	32	36	41	47	52	55	58	55	58	59	63	63	65	65	65	72	79	86	93	100
34	33	36	41	47	52	55	55	57	58	59	63	65	64	65	64	71	78	86	93	100
35	33	36	41	47	52	53	57	58	59	61	63	64	64	64	64	71	78	86	93	100
36	33	36	41	47	49	53	57	58	59	61	63	64	63	64	63	70	78	85	93	100
37	32	36	41	44	49	53	57	58	59	60	62	62	61	62	63	70	78	85	93	100
38	32	37	39	45	50	54	57	58	60	60	61	61	61	62	61	69	77	84	92	100
39	30	35	39	45	50	54	57	58	60	59	60	60	59	60	61	69	77	84	92	100
40	28	35	39	45	50	54	56	57	59	59	60	59	59	59	60	68	76	84	92	100

Female, Non-Smoker																				
Issue	**Duration**																			
Age	**1**	**2**	**3**	**4**	**5**	**6**	**7**	**8**	**9**	**10**	**11**	**12**	**13**	**14**	**15**	**16**	**17**	**18**	**19**	**20+**
41	28	35	39	45	49	52	55	55	58	57	58	59	58	59	60	68	76	84	92	100
42	27	35	39	44	49	52	54	55	56	57	57	57	58	60	61	69	77	84	92	100
43	27	34	39	44	47	50	53	53	55	55	56	57	56	60	61	69	77	84	92	100
44	26	34	38	42	47	50	52	53	54	55	55	55	56	61	62	70	77	85	92	100
45	26	33	38	42	45	48	51	51	52	53	54	55	56	61	62	70	77	85	92	100
46	24	32	37	40	43	47	49	51	52	53	54	55	56	60	61	69	77	84	92	100
47	24	30	35	39	42	45	47	49	51	53	54	55	56	59	60	68	76	84	92	100
48	23	30	35	37	40	44	47	49	50	53	54	55	55	59	57	66	74	83	91	100
49	23	29	33	35	39	42	45	48	50	53	54	55	55	57	56	65	74	82	91	100
50	21	27	32	34	37	41	44	48	50	53	54	55	55	56	55	64	73	82	91	100
51	21	26	30	34	37	41	44	48	49	51	53	53	54	55	55	64	73	82	91	100
52	20	25	30	33	37	41	44	47	48	50	50	51	51	55	53	62	72	81	100	100
53	19	24	29	32	37	41	43	47	48	48	49	49	51	52	52	62	71	100	100	100
54	18	24	29	32	37	41	43	45	47	47	47	49	49	51	51	61	100	100	100	100

Female, Non-Smoker																				
Issue	**Duration**																			
55	18	23	28	32	37	41	43	45	45	45	46	46	47	50	50	100	100	100	100	100
56	18	23	28	32	36	39	42	44	44	45	46	46	46	49	100	100	100	100	100	100
57	18	23	28	31	35	38	41	42	44	44	45	45	46	100	100	100	100	100	100	100
58	17	23	26	31	35	36	38	41	41	42	45	45	100	100	100	100	100	100	100	100
59	17	23	26	30	33	35	38	39	40	41	44	100	100	100	100	100	100	100	100	100
60	17	23	26	30	32	34	36	38	39	40	100	100	100	100	100	100	100	100	100	100
61	17	22	25	29	32	33	35	36	38	80	100	100	100	100	100	100	100	100	100	100
62	16	22	25	28	30	32	34	35	80	80	100	100	100	100	100	100	100	100	100	100
63	16	20	24	28	30	32	34	80	80	80	100	100	100	100	100	100	100	100	100	100
64	14	21	24	27	29	30	80	80	80	80	100	100	100	100	100	100	100	100	100	100
65	15	19	23	25	28	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
66	15	19	23	25	72	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
67	15	19	22	72	72	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
68	13	18	68	72	72	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
69	13	64	68	72	72	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
70	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100

Female, Non-Smoker																				
Issue	**Duration**																			
Age	**1**	**2**	**3**	**4**	**5**	**6**	**7**	**8**	**9**	**10**	**11**	**12**	**13**	**14**	**15**	**16**	**17**	**18**	**19**	**20+**
71	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
72	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
73	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
74	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
75	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
76	60	60	64	68	68	72	75	75	80	100	100	100	100	100	100	100	100	100	100	100
77	60	60	64	68	68	72	75	75	100	100	100	100	100	100	100	100	100	100	100	100
78	60	60	64	68	68	72	75	100	100	100	100	100	100	100	100	100	100	100	100	100
79	60	60	64	68	68	72	100	100	100	100	100	100	100	100	100	100	100	100	100	100
80	60	60	64	68	68	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
81	60	60	64	68	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
82	60	60	64	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
83	60	60	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
84	60	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
85+	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

Female, Smoker																				
Issue	**Duration**																			
Age	**1**	**2**	**3**	**4**	**5**	**6**	**7**	**8**	**9**	**10**	**11**	**12**	**13**	**14**	**15**	**16**	**17**	**18**	**19**	**20+**
0-15	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
16	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
17	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
18	99	100	100	100	100	100	100	95	96	97	100	100	100	100	100	100	100	100	100	100
19	87	89	92	92	92	92	84	84	86	86	92	93	95	96	99	99	99	100	100	100
20	74	77	80	80	80	73	73	73	75	77	83	83	86	88	90	92	94	96	98	100
21	71	74	78	78	71	71	73	74	77	79	85	86	88	89	90	92	94	96	98	100
22	68	71	75	70	71	71	73	74	78	79	88	90	89	89	92	94	95	97	98	100
23	65	69	67	70	70	70	73	77	79	81	89	90	90	92	92	94	95	97	98	100

Female, Smoker																				
Issue	**Duration**																			
24	62	60	64	69	70	70	74	77	79	81	92	90	92	93	93	94	96	97	99	100
25	53	58	63	67	69	70	74	78	81	82	92	93	93	95	95	96	97	98	99	100
26	53	58	63	69	71	72	75	79	82	82	93	93	95	96	90	92	94	96	98	100
27	52	56	63	70	74	74	78	81	82	84	93	95	95	90	90	92	94	96	98	100
28	52	56	64	71	75	77	79	82	85	86	95	95	90	92	92	94	95	97	98	100
29	51	56	64	71	78	78	81	84	86	88	95	90	90	92	92	94	95	97	98	100
30	51	56	64	72	79	79	82	85	88	89	90	90	92	93	93	94	96	97	99	100
31	51	56	64	72	78	81	84	84	88	84	90	90	92	93	93	94	96	97	99	100
32	51	56	64	71	78	81	85	86	84	85	90	90	92	94	93	94	96	97	99	100
33	51	57	62	71	78	82	85	83	84	85	90	92	93	93	93	94	96	97	99	100
34	51	56	62	71	78	82	81	83	85	86	90	92	92	94	93	94	96	97	99	100
35	51	56	62	71	78	79	83	84	85	86	90	91	91	93	93	94	96	97	99	100
36	49	56	62	71	74	79	83	84	85	86	90	90	91	93	92	94	95	97	98	100
37	48	55	62	67	74	79	83	84	85	86	89	90	89	92	91	93	95	96	98	100
38	47	55	57	66	72	77	81	84	86	86	87	88	88	90	91	93	95	96	98	100
39	45	50	57	66	72	77	81	83	85	86	86	87	86	89	90	92	94	96	98	100
40	41	50	57	66	72	77	81	83	84	85	86	86	86	89	89	91	93	96	98	100

Female, Smoker																				
Issue	**Duration**																			
Age	**1**	**2**	**3**	**4**	**5**	**6**	**7**	**8**	**9**	**10**	**11**	**12**	**13**	**14**	**15**	**16**	**17**	**18**	**19**	**20+**
41	40	50	57	65	71	76	79	81	83	84	85	86	85	89	90	92	94	96	98	100
42	40	49	57	65	69	74	77	80	82	83	84	85	86	90	92	94	95	97	98	100
43	39	49	55	63	69	73	76	78	80	82	83	84	85	92	93	94	96	97	99	100
44	39	48	55	62	67	71	75	78	80	80	82	84	86	93	96	97	98	98	99	100
45	37	47	55	61	65	70	73	76	78	80	81	84	86	94	97	98	98	99	99	100
46	36	46	53	59	63	68	71	75	77	79	83	85	86	93	96	97	98	98	99	100
47	34	44	51	57	62	66	70	75	77	80	83	85	86	93	94	95	96	98	99	100
48	34	44	50	54	60	64	69	74	77	80	84	86	87	92	92	94	95	97	98	100
49	33	42	48	53	58	63	68	74	77	81	84	86	87	92	91	93	95	96	98	100
50	31	41	46	51	57	61	67	74	77	81	85	87	87	91	90	92	94	96	98	100
51	30	39	45	51	56	61	67	74	75	80	83	85	85	90	90	92	94	96	98	100
52	29	38	45	50	56	62	68	74	75	79	81	83	84	90	90	92	94	96	100	100
53	28	37	43	49	57	62	68	73	74	77	79	81	83	89	89	91	93	100	100	100
54	28	36	43	49	57	63	69	73	74	75	78	80	81	87	89	91	100	100	100	100
55	26	35	42	49	57	63	69	73	73	74	76	78	79	86	87	100	100	100	100	100
56	26	35	42	49	56	62	67	71	72	74	76	78	79	85	100	100	100	100	100	100
57	26	35	42	49	55	61	66	69	72	73	76	78	79	100	100	100	100	100	100	100
58	28	36	43	49	55	59	63	68	69	72	76	78	100	100	100	100	100	100	100	100
59	28	36	43	49	54	57	63	67	68	70	76	100	100	100	100	100	100	100	100	100
60	28	36	43	49	53	57	61	64	67	69	100	100	100	100	100	100	100	100	100	100
61	26	35	42	48	52	56	59	63	66	80	100	100	100	100	100	100	100	100	100	100
62	26	33	41	47	51	55	58	62	80	80	100	100	100	100	100	100	100	100	100	100
63	25	33	41	46	51	55	57	80	80	80	100	100	100	100	100	100	100	100	100	100
64	25	33	40	45	50	53	80	80	80	80	100	100	100	100	100	100	100	100	100	100
65	24	32	39	44	49	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
66	24	32	39	44	72	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
67	24	32	39	72	72	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
68	24	32	68	72	72	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100

Female, Smoker																				
Issue	**Duration**																			
69	24	64	68	72	72	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
70	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100

Female, Smoker																				
Issue	**Duration**																			
Age	**1**	**2**	**3**	**4**	**5**	**6**	**7**	**8**	**9**	**10**	**11**	**12**	**13**	**14**	**15**	**16**	**17**	**18**	**19**	**20+**
71	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
72	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
73	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
74	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
75	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
76	60	60	64	68	68	72	75	75	80	100	100	100	100	100	100	100	100	100	100	100
77	60	60	64	68	68	72	75	75	100	100	100	100	100	100	100	100	100	100	100	100
78	60	60	64	68	68	72	75	100	100	100	100	100	100	100	100	100	100	100	100	100
79	60	60	64	68	68	72	100	100	100	100	100	100	100	100	100	100	100	100	100	100
80	60	60	64	68	68	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
81	60	60	64	68	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
82	60	60	64	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
83	60	60	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
84	60	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
85+	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

NOTES:
Legislative History (all references are to the Proceedings of the NAIC).
1994 Proc. 4th Quarter 17, 26, 653, 1098, 1126-1159 (adopted).
1998 Proc. 4th Quarter 15-16, 17, 608, 978, 1126-1148 (amended and reprinted).

§10917. Effective Date

A. The proposed effective date for this regulation is November 1, 2005.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:3, 22:163, 22:168 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:2556 (October 2005).

J. Robert Wooley
Commissioner

0510#077

RULE

Department of Public Safety and Corrections
Liquefied Petroleum Gas Commission

New Dealers; Specification for Liquefied Petroleum Gas Installations; Adoption of Standards
(LAC 55:IX.Chapter 1)

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and R.S. 40:1846 relative to the authority of the Liquefied Petroleum Gas Commission to make and enforce reasonable rules and regulations governing the storage, sale, and transportation of liquefied petroleum gases, the commission amends six existing Rules and adopts three new Rules. The Rule changes and new Rules have no known impact on family formation, stability, and autonomy as described in R.S. 49:972. The effective date of these changes and adoptions is November 1, 2005.

Title 55
PUBLIC SAFETY
Part IX. Liquefied Petroleum Gas
Chapter 1. General Requirements
Subchapter A. New Dealers
§103. Definitions

***

*Liquefied Petroleum Gases*Cthose gases derived from petroleum or natural gas, and are herein defined as those in the gaseous state at normal atmospheric temperature and pressure, and those maintained in liquid state at normal atmospheric temperature by means of suitable pressure. Those gases having a vapor pressure not exceeding that allowed for commercial propane composed predominantly of the following hydrocarbons, either by themselves or as mixtures: propane, propylene, butane (normal butane or iso butane), and butylenes. This definition shall not include acetylene as a regulated gas.

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AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended by the Department of Public

Safety and Corrections, Liquefied Petroleum Gas Commission, LR 24:459 (March 1998), LR 29:2508 (November 2003), LR 31:2566 (October 2005).

§105. Applications

A. Any person, firm, or corporation desiring to enter the liquefied petroleum gas business in the state of Louisiana must file formal application with the Liquefied Petroleum Gas Commission. In the case of Class VI and Class VIII a formal application must be filed for each location. All other classes of permits and registrations require only one formal application to be filed. Formal application must be filed, 20 days prior to the date of the commission meeting which the application is to be heard. Application for Classes VI-X, VII-E, and R-1, R-2 registrations have no delay prior to the granting of the permit. These permits will be granted by the office of the director, upon complying with all Commission requirements, and ratified by the Liquefied Petroleum Gas Commission at the first subsequent Commission meeting. Presence of applicant or his authorized representative is required at the Commission meeting when the application is heard, except in the cases of Class VI-X, VII-E, and R-1, R-2 registrations where appearance is waived. In no case will the applicant's supplier be the authorized representative. Only with special approval of the Commission, under extenuating circumstances, will the Commission allow the applicant to be represented by another party other than a principal officer, director, manager, or attorney. The formal application form(s) will be furnished by the Commission upon request.

B. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:557 (May 1985), LR 24:460 (March 1998), LR 25:1262 (July 1999), LR 29:2509 (November 2003), LR 31:2567 (October 2005).

§107. Requirements

A. - A.2. ...

3. Must have on file in the office of the director, proof of insurance, on a commission proprietary certificate of insurance, issued by a Louisiana licensed agent, in the minimum sum of $1,000,000, in the classes of insurance as required by the commission. This certificate of insurance must show kinds and amount in force. This certificate of insurance will meet the proof of insurance as required by the commission. Said certificate shall be considered evidence of liability insurance coverage; said certificate must bear the clause that in the event the insurance company intends to cancel, the insurance company will notify the director of the Liquefied Petroleum Gas Commission 10 days prior to the date of cancellation. A binder of insurance coverage, within date, will be acceptable as proof of insurance until the policy is issued and a certificate of insurance can be issued. The $1,000,000 requirement shall be effective on the first proof of insurance required after November 1, 2003. The commission will provide the proprietary certificate of insurance form on its public web site for downloading or will provide copies of the proprietary certificate of insurance form via facsimile or via U.S. mail upon request. The proprietary certificate of insurance requirement shall be required for the first certificate of insurance and subsequent certificates of insurance required after November 1, 2005.

3.a. - 6. …

a. Each Class I and Class IV dealer shall prepare and submit reports to the commission of each three month period within their annual permit fee calculation period, by the end of the month following each three month period, in a form acceptable to the commission, the previous three month's purchases and sales. An additional five calendar days shall be granted for mail delays before a violation is issued.

6.b. - 10. …

11. Applications for change of name must be on file with the commission 20 days prior to date of commission meeting, and must deposit a filing fee of $25 with application. A representative of the new firm or corporation will be required to be present when the application is considered by the commission, except in the cases of Class VI-X, VII-E, and R-1 and R-2 registrations, when appearance is waived. All certificates of competency must be changed to new name, except Class VI-X which do not require certificates of competency.

12. - 15. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, LR 1:315 (July 1975), LR 4:86 (March 1978), LR 7:633 (December 1981), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:557 (May 1985), LR 15:854 (October 1989), LR 16:1063 (December 1990), LR 20:1400 (December 1994), LR 24:461 (March 1998), LR 24:2311 (December 1998), LR 25:1262 (July 1999), LR 25:2410 (December 1999), LR 26:1487 (July 2000), LR 27:2256 (December 2001), LR 28:2553 (December 2002), LR 29:2509 (November 2003), LR 31:2567 (October 2005).

§109. Compliance with Rules

A. - B. ...

C. In lieu of the adjudicatory hearing required in §109.B, the commission may accept an affidavit signed by the party being cited for a violation, prior to the hearing date set for the charge, waiving their right of appearance, with a plea of guilty to a charge, and with the payment of a proposed penalty as set forth in §109.D. In violations involving fees, the fee, and any interest and penalty on those fees must be paid as well as the proposed civil penalty for the violation. This option shall not be available after the hearing date.

D. Subject matter areas for the option in §109.C shall be limited exclusively to insurance, permit fees, signage requirements, tanker truck registrations, tanker truck, school bus and mass transit safety inspections, school bus and mass transit registrations, installation reports, failure to accept cylinders for disposal, scale requirements and chock block requirements.

E. Proposed civil penalties shall be limited to the following amount per subject matter area on the first violation, within a three year period: insurance $225, permit fees $150, signage requirements $150, tanker truck registrations $300, tanker truck, school bus and mass transit safety inspections $150, school bus and mass transit registrations $150, installation reports $150, failure to accept cylinders for disposal $150, scale requirements $150 and chock block requirements $100. The commission may

increase the proposed civil penalties by 25-30 percent for a second violation, within a three year period. The commission shall require appearance at the adjudicatory hearing for a third violation within a three year period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:557 (May 1985), LR 25:2411 (December 1999), LR 31:2567 (October 2005).

Subchapter H. Specification for Liquefied Petroleum Gas Installations at Schools, and Places of Public Assembly

§179. Requirements for Plans and Specifications

A. - B.7. …

C. The following is a clarification of the requirements for new sketches at schools, churches, nursing homes, and other places of public assembly.

1. Where any additional piping is added, the installation of a new appliance or the change out of an appliance with one with a higher BTU load, a new sketch is required to the office of the director for approval.

2. Replacement of a storage tank or container will require a new sketch to the office of the director for approval.

3. A new sketch is required when changing fuel suppliers at all places of public assembly, even when no changes are made in the liquefied petroleum gas system.

D. In all cases an installation report is required with the installation of a container, tank, or cylinder at schools, churches, nursing homes, and other places of public assembly.

E. The commission reserves the right to make a final inspection and witness a pressure test through an inspector of the Liquefied Petroleum Gas Commission before approving the sketch and allowing the system to be placed into service at all schools, churches, nursing homes, and other places of public assembly.

F. The minimum capacity of storage containers, tanks, or cylinders shall be 100 gallons capacity per each 100,000 Btu appliance load at all schools, churches, nursing homes, and other places of public assembly. Exceptions to this rule may be made by the director of this commission.

G. Fences are required for storage containers, tanks, and cylinders at all schools, all nursing homes, and all churches with schools or day-care facilities on site. Fences may be required at other places of public assembly when deemed necessary in the interest of public safety by the office of the director. The commission may approve a request for an exemption from the fencing requirements under extenuating circumstances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 20:1404 (December 1994), amended LR 24:470 (March 1998), LR 31:2568 (October 2005).

Subchapter I. Adoption of Standards

§181. National Fire Protection Association Pamphlet Numbers 54 and 58

A. - E.9. …

10. With regard to §2-2.1.4.b, NFPA 58-1995-DOT cylinders of 100 lbs. or less shall not be filled, continued in service, or transported unless they are properly qualified or requalified for L.P. gas service, if they are in commerce or transportation. Transportation of empty cylinders for requalification or disposal shall not be a violation of this rule. DOT cylinders of 100 lbs. or more shall not be refilled, continued in service or transported unless they are properly qualified or requalified for L.P. gas service in accordance with DOT regulations, meaning in commerce and transportation. Transportation of empty cylinders for requalification or disposal shall not be a violation of this rule. Qualification or requalification must be in accordance with C-3.2 of Appendix C, NFPA 58-1995. In addition to the requirements of C-3.2 of Appendix C, NFPA 58-1995 each cylinder that has successfully passed requalification must be marked with a RIN issued by the DOT in accordance with §180.213 of CFR 49. This requirement shall be effective for all requalifications after May 8, 2003. Variation from the marking requirement may be approved by the Associate Administrator of the DOT and those variations will be accepted by Louisiana as being in compliance.

11. …

12. With regard to §6-2.2.7, NFPA 58-1995 Edition, containers having an individual water capacity not exceeding 108 lb. (49 kg) [nominal 45 lb. (20 kg) LP-Gas] capacity transported in open vehicles and containers having an individual water capacity not exceeding 10 lb. (4.5 kg) [nominal 4.2 lb. (2 kg) LP-Gas] capacity transported in enclosed spaces of the vehicle shall be permitted to be transported in other than the upright position, however may not be transported in the upside-down position or resting on an individual water capacity exceeding 108 lb. (49 kg) [nominal 45 lb. (20 kg) LP-Gas] capacity transported in open vehicles and containers having an individual water capacity exceeding 10 lb. (45 kg) [nominal 4.2 lb. (1.9 kg) LP-Gas] capacity transported in enclosed spaces shall be transported with the relief device in direct communication with the vapor space.

13. In NFPA 58-1995 Edition under 5-2 General Provisions add the following provisions.

a. All curb stops used as crash protection shall be at least 5 feet from the cage, 5 inches high and staked into the ground.

b. All posts, if used as crash protection, shall be metal at least 2 inches in diameter, 20 inches above ground level, at least 2 feet from the cage and no more than 4 feet apart.

c. Each cage or area immediate to the cage shall have a "No Smoking" sign, the name of the permit holder, if not already displayed on the premises, and the supplier name.

d. All ignition sources, including any appliances, or the cabinets of appliances, such as coke machines, water coolers, electric dispensing machines etc., shall be at least 5 feet from the cage.

e. Cages shall be at least 5 feet from points of public gatherings such as pay phones, benches, smoking areas, and break areas.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 20:1404 (December 1994), amended LR 24:470 (March 1998), LR 25:1263 (July 1999), LR 25:2412 (December 1999), LR 27:2257 (December 2001), LR 31:2568 (October 2005).

Charles M. Fuller
Director

0510#051

RULE

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Poverty Point Reservoir Netting Prohibition
(LAC 76:VII.106)

The Wildlife and Fisheries Commission hereby establishes the following Rule on commercial netting in Poverty Point Reservoir in Richland Parish, Louisiana.

Title 76
WILDLIFE AND FISHERIES
Part VII. Fish and Other Aquatic Life
Chapter 1. Freshwater Sports and Commercial Fishing
§106. Poverty Point Reservoir Netting Prohibition

A. The Wildlife and Fisheries Commission hereby prohibits the use of freshwater commercial fish netting (gill nets, trammel nets, hoop nets, wire nets and fish seines) in Poverty Point Reservoir, Richland Parish, Louisiana. No person shall use or possess any gill net, trammel net, hoop net or fish seines in or on Poverty Point Reservoir. Violation of this provision shall be a class two violation as specified in R.S. 56:32.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:22.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 31:2569 (October 2005).

Dwight Landreneau
Secretary

0510#050

RULE

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Snake Possession Permits (LAC 76:XV.101)

The Department of Wildlife and Fisheries and Wildlife and Fisheries Commission do hereby require permits for private possession of constrictor snakes in excess of 12 feet long and of venomous snakes.

Title 76
WILDLIFE AND FISHERIES
Part XV. Reptiles and Amphibians
Chapter 1. Guidelines
§101. Recreational and Commercial Harvests; Prohibitions

A. - J. …

K. Venomous and Large Constricting Snakes

1. The importation and/or private possession of constrictor snakes in excess of 12 feet, including but not limited to the following species: Apodora papuana (Papuan python), Liasis olivacea, (Olive python), Morelia spilota (Carpet or Diamond python), Morelia kinghorni (Scrub python), Morelia amethystina (Amethystine python), Python natalensis (Southern African python), Python sebae (African Rock python), Python molurus (Indian or Burmese python), Python reticulatus (Reticulate python), any species of the genus Boa (Boa constrictors), and any species of the genus Eunectes (Anacondas), and venomous snakes, (hereinafter "restricted snakes") obtained in any manner, shall be by permit issued by the Department of Wildlife and Fisheries except for animals kept by animal sanctuaries, zoos, aquariums, wildlife research centers, scientific organizations, and medical research facilities as defined in the Animal Welfare Act as found in the United States Code Title 7, Chapter 54, 2132(e).

*Venomous Snakes*Cany species under current taxonomic standing recognized to belong to the Families Viperidae (Pitvipers and Vipers), Elapidae (Cobras and Mambas), Hydrophiidae (Sea Snakes), Atractaspididae (Mole Vipers), as well as the genera Dispholidus, Thelotornis, and Rhabdophis of the Family Colubridae only.

i. Any person requesting a permit to allow importation and/or private possession of venomous snakes shall demonstrate no less than one year of substantial, practical experience (to consist of no less than 500 hours) in the care, feeding, handling, and/or husbandry of the species for which the permit is sought, or other species within the same zoological family, which are substantially similar in size, characteristics, care, and nutritional requirements to the species for which the permit is sought.

ii. For the purpose of demonstrating compliance, applicants shall submit documentation of such experience, including a detailed description of the experience acquired, the dates and time frames the experience was obtained and the specific location(s) where it was acquired, and references of no less than two individuals having personal knowledge of your stated experience. Personal reference letters do not need to be authored by venomous reptile permit holders. Additional documentation may include records of prior permits for the keeping of venomous reptiles, employment records, or any other competent documentation of the required experience.

iii. Documented educational experience in zoology or other relevant biological sciences obtained at the college or technical school level or above may substitute for up to 250 hours of the required experience. The Department of Wildlife and Fisheries shall be responsible for judgment of the adequacy of the documentation.

iv. Applicant must be at least 18 years old at the time of application.

v. Notification of relocation of facilities shall be made within 30 days of a move, and permittee shall be allowed to keep the animals in the same setup(s) until the inspection of the facility and/or room and cages within which the animals are to be kept at the new location can be undertaken by Department of Wildlife and Fisheries personnel.

vi. In the event of an escape where a constrictor snake in excess of 12 feet or a venomous snake escapes its

cage and its secure containment room, and becomes outside the control of the permit holder and/or owner, notification shall immediately be made to the Department of Wildlife and Fisheries emergency notification number.

vii. A secure transport container shall be required to transport venomous snakes away from any field collection sites.

viii. Those persons who can prove prior ownership of restricted snakes have 90 days from the final ruling to obtain a permit from the department.

ix. Restricted snakes shall be kept in secure, escape proof enclosures with doors that lock, or such secure enclosures shall be enclosed in secure, escape proof rooms that are kept locked except when the animals are being fed, the cages are being cleaned, or otherwise worked by the person trained and experienced in proper care, handling, and use of the species being maintained. Entrance doors shall be kept securely locked on all outdoor enclosures to prevent escape and unauthorized intrusion and the enclosure shall be equipped with barriers to prevent visitors from falling into enclosures that are constructed below ground level.

x. Facilities that house constrictor snakes in excess of 12 feet or venomous snakes in private possession shall be open to inspection prior to issuance of a permit and at other times deemed necessary to ensure compliance with the permit by Department of Wildlife and Fisheries personnel or other persons authorized by Department of Wildlife and Fisheries to perform such inspections.

xi. Any non-permitted individual in possession of restricted snakes shall have 30 days to obtain a permit. Any individual who possesses restricted snakes in a manner not compliant with this rule shall have 30 days to demonstrate compliance to Department of Wildlife and Fisheries personnel. Any individual who remains non-compliant after 30 days shall forfeit all restricted snakes to Department of Wildlife and Fisheries personnel, who may dispose of the snakes in any manner.

2. A first violation of this Section will result in a five-year period of probation; a violation during the probationary period shall be considered a second violation, and will result in a one-year suspension of the permit; a third violation will result in a five-year suspension of a permit.

L. Except as provided in Subsection K, whoever violates the provisions of this rule shall be fined not less than $25 nor more than $100, or imprisoned for not less than 30 days, or both.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(10), (13), (15) and (25), R.S. 56:23, and R.S. 56:632.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 20:1135 (October 1994), amended LR 30:2495 (November 2004), LR 31:2569 (October 2005).

Dwight Landreneau
Secretary

0510#049

Notices of Intent

NOTICE OF INTENT

Department of Civil Service
Civil Service Commission

Reduction in Work Hours

The State Civil Service Commission will hold a public hearing on Wednesday, November 2, 2005 to consider proposed amendments to Rule 17.7. The hearing will begin at 9 a.m. and will be held in the Louisiana Purchase Room of the Claiborne Building, 1201 North Third Street, Baton Rouge, Louisiana.

Consideration will be given to the following.

Rule 17.7. Reduction in Work Hours

When an appointing authority determines it is necessary to reduce the work hours of employees in order to avoid or reduce layoffs, his request is subject to the following:

(a). No change.

(b). Such reductions shall not exceed one period of 12 consecutive months unless prior approval of the commission is granted.

(c). The number of work hours reduced for an employee shall not exceed 40 hours per biweekly payroll period.

(d). No change.

Explanation

Civil Service Rule 17.7 allows for appointing authorities to reduce the work hours of employees in order to avoid or reduce layoffs, subject to the approval of the Director of Civil Service (Rule 17.2). Rule 17.7(c) currently reads: "The number of work hours reduced for an employee shall not exceed 16 hours per biweekly payroll period." One of the original intents of the restriction was to discourage employers from unrealistically delaying layoff actions.

However, many of our agencies are facing unprecedented situations as the result of Hurricane Katrina. Increasing the restriction to 40 hours per bi-weekly payroll period would provide one more option that could prove mutually beneficial to both the agencies and state employees in the hardest hit areas. This change would allow agencies to work people half time, either half days or a week on and a week off.

This layoff avoidance measure may afford agencies a better opportunity to reconstitute a workforce as conditions improve. Extended furloughs without pay followed by layoffs would likely make it more difficult to recruit employees to come back to work, especially in high demand jobs. People could continue to work and would have time to tend to their personal business (clean-up, meeting with insurance adjustors, rebuilding their personal lives) without taking significant amounts of leave. Many people are facing unemployment and for many of them, half of their salary would equal or exceed their unemployment benefits. Being able to continue to work, even on a drastically reduced schedule, may allow employees the option of continuing their group health coverage. Employees may also be able to continue contributions to the retirement system, although at a reduced rate.

Rule 17.7(b) currently makes no provision for extending an approved reduction in hours beyond a 12-month consecutive period. The proposed change would grant the Civil Service Commission the discretion to extend this time period at an agency's request.

Anne S. Soileau
Acting Director

0510#037

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 118—Statewide Assessment Standards and Practices
(LAC 28:CXI.107, 305, 307, 309, 313, 315, 701, 1101, 1115, 1141, 1151, 1153, 1301, 1313, 1335, 1345, 1347, 1349, 1351, 1355, 1501, 1701, 1901, 2001, 2501, 2701, 3303, 3305, 3307, and 3501)

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 *Bulletin 118—Statewide Assessment Standards and Practices*. Bulletin 118 contains the State Board of Elementary and Secondary Education (SBESE) and the Division of Student Standards and Assessments (DSSA) test policy rules, guidelines, and procedures for easy access during statewide test administration. The purpose of this project is to:

- Revise the names of two of Louisiana's statewide assessment tests by removing *for the 21st Century* from each. *Graduation Exit Examination* (GEE) and *Louisiana Educational Assessment Program* (LEAP).
- *Add* chapter 20, *Louisiana Alternate Assessment, Level 2* (LAA2) explaining a new test assessment instrument for special education students.
- Revise the name Louisiana Alternate Assessment (LAA) chapter 19, to Louisiana Alternate Assessment, Level 1 (LAA1).
- *Relocate* information about the assessment programs *The Iowa Tests of Basic Skills* (ITBS) and *Iowa Tests of Educational Development* (ITED) from §107.D to §107.H. The *Integrated* Louisiana Educational Assessment Program (*i*LEAP) will replace these tests in §107.D.

The document will consolidate statewide test information and provide easy access to that information. It was necessary to revise the bulletin at this time to clarify new test assessment guidelines, verify the renaming of tests, and ensure effective test administrations.

Title 28
EDUCATION
Part CXI. Bulletin 118CStatewide Assessment Standards and Practices
Chapter 1. General Provisions
§107. Assessment Programs

A. Kindergarten Developmental Readiness Screening Program (KDRSP). Each school district is required to administer an approved screening instrument to each child entering kindergarten for the first time, with the results to be used for placement and planning instruction.

B. Louisiana Educational Assessment Program (LEAP). Criterion-referenced tests in English Language Arts, Mathematics, Science, and Social Studies assess student performance relative to specific benchmarks established in the state's content standards and provide data for evaluating student, school, and district performance. The tests assess a student's complex thinking skills as well as knowledge and application of information. These high-stakes tests are tied to promotional policy for grades 4 and 8.

C. Graduation Exit Examination (GEE). Criterion-referenced tests in English Language Arts, Mathematics, Science, and Social Studies assess student performance relative to specific benchmarks established in the state's content standards and provide data for evaluating student, school, and district performance. These high-stakes tests require high school students to meet established achievement levels to be eligible to receive a high school diploma.

D. *Integrated* Louisiana Educational Assessment Program (*i*LEAP). The *i*LEAP will integrate criterion-referenced tests and norm-referenced tests into one program to provide data for evaluating students, schools, and district performance in grades 3, 5, 6, 7, and 9 beginning with the 2005-2006 academic year.

E. LEAP Alternate Assessment, Level 1 (LAA 1). The LAA 1 is a performance-based student assessment that evaluates each eligible special education student's knowledge and skills in targeted areas. It is an "on-demand" assessment, which means the test administrator directs the student to perform a specific task and then scores the student's performance after the task is completed.

F. LEAP Alternate Assessment, Level 2 (LAA 2). The LAA 2 is a criterion-referenced assessment, which is based on modified academic achievement standards that allow students with persistent academic disabilities who are served under the Individuals with Disabilities Education Improvement Act (IDEA) to participate in academic assessments that are sensitive to measuring progress in their learning.

G. English Language Development Assessment (ELDA). The ELDA is a research-based program designed to measure proficiency in reading, writing, speaking, and listening to English of LEP students; the program began in the 2004–2005 academic year.

H. The Iowa Tests. The Iowa Tests of Basic Skills (ITBS), used in grades 3, 5, 6, and 7, and the Iowa Test of Educational Development (ITED), used in grade 9, are norm-referenced tests that provide comparative data to evaluate student, school, and district performance. The last administration of The Iowa Tests occurred in academic year 2004-2005.

I. Graduation Exit Examination ("old" GEE). The "old" GEE measures curricula-based proficiencies in English Language Arts, Mathematics, Written Composition, Science, and Social Studies. The administration of the "old" GEE became a district responsibility beginning with the 2003-2004 academic year.

J. LEAP Alternate Assessment-B (LAA-B). The LAA-B, which was administered from 2000 through 2003, assessed special education students who met specific criteria at their functioning levels in language/reading and/or mathematics, rather than at their enrolled grade levels.

K. National Assessment of Educational Progress (NAEP). Also known as the Nation's Report Card, NAEP is administered nationally to a random stratified sample population of students to gather data about subject-matter achievement, instructional experiences, and school environment.

L. Field Tests. Representative student populations from school districts throughout Louisiana are chosen to field test new items to be used in future statewide assessments, including LEAP, GEE, ELDA, and *i*LEAP. The items are tested, scored, ranked statistically, and identified as effective or ineffective.

M. Placement Tests. Students from out-of-district or in-state educational settings, such as approved home study programs or nonpublic schools, who wish to enroll in public schools at grades 5 and 9 must take a placement test if they have not taken and met the requirements for LEAP. Students taking the placement test must score basic or above in English Language Arts or Mathematics and approaching basic or above in the other to enroll in grade 5 and score approaching basic or above in English Language Arts and Mathematics to enroll in grade 9.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1526 (July 2005), amended LR 32:

Chapter 3. Test Security
§305. Test Security Policy

A. The SBESE first approved a Test Security Policy on December 10, 1998. The policy has been periodically revised. The State Board of Elementary and Secondary Education holds the test security policy to be of utmost importance and deems any violation of test security to be serious. The Test Security Policy follows.

1. - 3.f.iv. ...

g. administer published parallel, previously administered, or current forms of any statewide assessment (e.g., Louisiana Educational Assessment Program [LEAP], *Integrated* LEAP [*i*LEAP], Graduation Exit Examination [GEE], Graduation Exit Examination ["old" GEE], LEAP Alternate Assessment, Level 1 [LAA 1], LEAP Alternate Assessment, Level 2 [LAA 2], the English Language Development Assessment [ELDA], or forms K, L, M, A, and B and all new forms of The Iowa Tests as a practice test or study guide;

3.h. - 11. ...

12. Any individual who knowingly engages in any activity during testing that results in invalidation of scores derived from the Louisiana Educational Assessment

Program (LEAP), Graduation Exit Examination (GEE), or Graduation Exit Examination ("old" GEE) shall forfeit the test results but will be allowed to retake the test at the next test administration.

13. - 16. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.7 (C) (G).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1528 (July 2005), amended LR 32:

§307. Change of District Test Coordinator Notification

A. If during the academic year the person appointed as district test coordinator changes, the district superintendent must notify the LDE, Division of Student Standards and Assessments. The notification must be in writing and must be submitted within 15 days of the change in appointment.

1. The old district test coordinator must inform the new district test coordinator of passwords for LEAP*web* and LEAP*data*, location of placement tests, and location of "Old" GEE testing materials.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1530 (July 2005), amended LR 32:

§309. Erasure Analysis

A. - A.5. ...

6. A summary report of erasure analysis irregularities will be presented to the Louisiana Educational Assessment Testing Commission and the SBESE after each test administration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1530 (July 2005), amended LR 32:

§313. Viewing Answer Documents

A. - B.3. ...

4. the type of assessment (i.e., LEAP, GEE, LAA 1, LAA 2, *i*LEAP, ELDA) and the content area of the answer document or documents requested; and

B.5. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1532 (July 2005), LR 32:

§315. Emergencies During Testing

A. - A.4. ...

5. If the test booklets have been opened and test security has been compromised, testing should not be continued. The answer documents should be sent to the testing company with the responses that were completed prior to the emergency. High school students who did not meet the achievement-level requirements to be eligible for a standard high school diploma will be allowed to retake the test they did not complete during the emergency at the next test administration. Likewise, a student who is unable to complete a LEAP test because of an emergency situation, thereby not meeting the requirements for promotion, will be allowed to retake the test during the next test administration.

6. - 7. ...

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1532 (July 2005), amended LR 32:

Chapter 7. Assessment Program Overview

§701. Overview of Assessment Programs in Louisiana

A. Norm-Referenced and Criterion-Referenced Testing Programs Since 1986

Name of Assessment Program	Assessment Population	Administered
Kindergarten Screening		
Kindergarten Developmental Readiness Screening Program (KDRSP)	Kindergarten	fall 1987–
Norm-Referenced Tests (NRTs)		
California Achievement Test (CAT/F)	grades 4, 6, and 9	spring 1988–spring 1992 (no longer administered)
California Achievement Test (CAT/5)	grades 4 and 6 grade 8	spring 1993–spring 1997 spring 1997 only (no longer administered)
Iowa Tests of Basic Skills (ITBS) (form L) and Iowa Tests of Educational Development (ITED) (form M)	grades 4, 6, 8, 9, 10, and 11	spring 1998 (no longer administered)
ITBS ITED (form M)	grades 3, 5, 6, and 7 grade 9	spring 1999–spring 2002 (no longer administered)
ITBS ITED (form B)	grades 3, 5, 6, and 7 grade 9	spring 2003–spring 2005 (no longer administered)
Criterion-Referenced Tests (CRTs)		
National Assessment of Educational Progress (NAEP)	grades 4, 8, and 12	spring 1990–
Louisiana Educational Assessment Program (LEAP)	grades 3, 5, and 7	spring 1989–spring 1998 (no longer administered)
Graduation Exit Examination ("old" GEE)	grades 10 and 11	spring 1989– spring 2003 (state administered) fall 2003– (district administered)

Criterion-Referenced Tests (CRTs)		
Louisiana Educational Assessment Program (LEAP) (ELA and Mathematics)	grades 4 and 8	spring 1999–
LEAP (Science and Social Studies)	grades 4 and 8	spring 2000–
Graduation Exit Examination (GEE) (ELA and Mathematics)	grade 10	spring 2001–
GEE (Science and Social Studies)	grade 11	spring 2002–
Integrated NRT/CRT		
Integrated Louisiana Educational Assessment Program (iLEAP)	Grades 3, 5, 6, 7, and 9	spring 2006–
Special Population Assessments		
Louisiana Alternate Assessment, Level 1 (LAA 1)	Students with Individualized Education Programs (IEPs) who meet participation criteria in grades 3–11.	spring 2001–
Louisiana Alternate Assessment, Level 2 (LAA 2)	Grades 4, 8, 10, and 11	spring 2006–
LAA 2	Grades 5, 6, 7, and 9	spring 2007–
Louisiana Alternate Assessment-B (LAA-B) ["out-of-level" test]	Students with Individualized Education Programs (IEPs) who met eligibility criteria in grades 3–11.	spring 1999–spring 2003 (no longer administered)
English Language Development Assessment (ELDA)	Limited English Proficient (LEP) students in grades K–12	spring 2005–

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1534 (July 2005), LR 32:

Chapter 11. Louisiana Educational Assessment Program

Subchapter A. General Provisions

§1101. Introduction

A. The LEAP is a criterion-referenced testing program that is directly aligned with the state content standards, which by law are as rigorous as those of NAEP. The LEAP measures how well students in grades four and eight have mastered the state content standards. Test results are reported in terms of achievement levels.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 (F) (1) (c).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1536 (July 2005), LR 32:

Subchapter B. Achievement Levels and Performance Standards

§1115. Performance Standards

A. Performance standards for LEAP English Language Arts, Mathematics, Science, and Social Studies tests are finalized in scaled-score form. The scaled scores range between 100 and 500 for all grades and content areas.

B. LEAP Achievement Levels and Scaled Score RangesCGrade 4

Achievement Level	English Language Arts Scaled Score Range	Mathematics Scaled Score Range	Science Scaled Score Range	Social Studies Scaled Score Range
Advanced	408–500	419–500	405–500	399–500
Mastery	354–407	370–418	360–404	353–398
Basic	301–353	315–369	306–359	301–352
Approaching Basic	263–300	282–314	263–305	272–300
Unsatisfactory	100–262	100–281	100–262	100–271

C. LEAP Achievement Levels and Scaled Score RangesCGrade 8

Achievement Level	English Language Arts Scaled Score Range	Mathematics Scaled Score Range	Science Scaled Score Range	Social Studies Scaled Score Range
Advanced	402–500	398–500	400–500	404–500
Mastery	356–401	376–397	345–399	350–403
Basic	315–355	321–375	305–344	297–349
Approaching Basic	269–314	296–320	267–304	263–296
Unsatisfactory	100–268	100–295	100–266	100–262

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4 (A).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1536 (July 2005), LR 32:

Subchapter D. LEAP Assessment Structure

§1141. Content Standards

A. The LEAP tests measure knowledge and skills deemed necessary for students to become good scholars and productive citizens. This knowledge and these skills are reflected in the content standards that were approved in May 1997 by the SBESE.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1545 (July 2005), LR 32:

§1151. Retests and Rescores

A. Double Jeopardy Rule. If a student scores at the required passing achievement level in LEAP English Language Arts or Mathematics during an administration and then retakes the test and scores below the required level on the retest administration, the passing score will be used to determine promotion.

B. Rescores

1. Students may request a rescore if the following criterion are met.

a. English Language Arts and MathematicsCgrades 4 and 8. The test has a scaled score five points below the Basic or Approaching Basic achievement level.

1.b. - 4. ...

C. Summer Retest. The summer retest is for students enrolled in grades 4 and 8 who need to be tested with LEAP for promotion to grades 5 and 9 the following fall.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1547 (July 2005), LR 32:

§1153. Transfer Students

A. - A.1. ...

a. A fourth or eighth grade student who transfers to a Louisiana public school before the spring administration of LEAP must take and pass the spring administration of LEAP English Language Arts and Mathematics (ELA/Math) tests.

b. A fourth or eighth grade student who transfers to a Louisiana public school after the spring administration of the LEAP but before the end of the school year must take and pass the summer administration of the LEAP (ELA/Math) to be eligible for promotion to grade 5 or 9.

c. A student who seeks to enroll in a Louisiana public school in grade 5 or grade 9 after the LEAP summer administration and before school starts must take and pass the English Language Arts and Mathematics portions of the placement test.

A.1.d. - B.1. …

a. A fourth or eighth grade student who transfers to a Louisiana public school before the spring administration of LEAP must take and pass the spring administration of LEAP (ELA/Math).

b. A fourth or eighth grade student who transfers to a Louisiana public school after the spring administration of the LEAP but before the end of the school year must take and pass the summer administration of the LEAP (ELA/Math) to be eligible for promotion to grade 5 or 9.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1547 (July 2005), LR 32:

Chapter 13. Graduation Exit Examination

Subchapter A. General Provisions

§1301. Introduction

A. The GEE is a criterion-referenced testing program that is directly aligned with the state content standards, which by law are as rigorous as those of NAEP. This test measures how well a student has mastered the state content standards. The GEE initially is administered at grades 10 and 11. Initial testers generally take the English Language Arts test and the Mathematics test at grade 10 and the Science test and Social Studies test at grade 11.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 (F) (1)(c).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1548 (July 2005), amended LR 32:

Subchapter B. Acheivement Levels and Performance Standards

§1313. Performance Standards

A. Performance standards for GEE English Language Arts, Mathematics, Science, and Social Studies tests are finalized in scaled-score form. The scaled scores range between 100 and 500 for all grades and content areas.

B. GEE Achievement Levels and Scaled Score Ranges

Achievement Level	Grade 10		Grade 11	
	English Language Arts Scaled Score Range	Mathematics Scaled Score Range	Science Scaled Score Range	Social Studies Scaled Score Range
Advanced	398–500	377–500	396–500	386–500
Mastery	347–397	346–376	349–395	344–385
Basic	299–346	305–345	301–348	297–343
Approaching Basic	270–298	286–304	267–300	275–296
Unsatisfactory	100–269	100–285	100–266	100–274

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4 (A).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1548 (July 2005), amended LR 32:

Subchapter D. GEE Assessment Structure

§1335. Content Standards

A. The GEE tests measure knowledge and skills deemed necessary for students to become good scholars and productive citizens. This knowledge and these skills are reflected in the content standards that were approved in May 1997 by the SBESE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1552 (July 2005), amended LR 32:

§1345. Double Jeopardy Rule

A. If a school administers a GEE test that the student has already passed and the student scores unsatisfactory on the retest, the passing score will be used to determine the student's eligibility for a standard high school diploma.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1554 (July 2005), amended LR 32:

§1347. First and Second Cohorts

A. The first cohort comprises students who were first-time tenth graders in 2000-2001. First cohort students are required to score approaching basic or above on the GEE English Language Arts test and the GEE Mathematics test to be eligible for a standard high school diploma.

B. The second cohort comprises students who were first-time tenth graders in 2001-2002 and all first-time tenth graders thereafter. Second cohort students are required to score approaching basic or above on the GEE English Language Arts test and the GEE Mathematics test and to score approaching basic or above on either the GEE Science or Social Studies test to be eligible for a standard high school diploma.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1554 (July 2005), amended LR 32:

§1349. Rescores

A. Students may request a rescore of their GEE tests if the following criterion are met:

1. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1554 (July 2005), amended LR 32:

§1351. GEE Administration Rules

A. Students enrolled in grade 10 for the first time must take GEE English Language Arts and Mathematics tests during the spring administration.

B. Students repeating grade 10 shall take the GEE Science and Social Studies tests during the spring administration.

C. Students enrolled in grade 11 for the first time must take GEE Science and Social Studies tests during the spring administration.

D. - E. ...

F. Students in block schedules who are classified as tenth graders in the fall of their second year and as eleventh graders by the subsequent spring test administration are permitted to take all GEE content-area tests, English Language Arts, Mathematics, Science, and Social Studies, for the first time during that spring test administration.

G. If students enrolled in grade 12 have not yet met the GEE requirements to be eligible for a standard high school diploma, they may take all content-area tests, English Language Arts, Mathematics, Science, and Social Studies, during both the fall and the February Seniors Only retest administrations.

H. - I. ...

J. There is no ending age limit for students to retest in GEE, nor is there a limit on the number of times the student may retake the test. Students who no longer reside in the school district where he/she completed Carnegie units may test in the current school district of residence. The DTC shall forward the passing test scores to the high school where the Carnegie units reside.

K. If a student was issued a GED diploma and subsequently meets the requirements of the GEE, the student may surrender the GED diploma and be issued a standard high school diploma.

L. If students are transferring to a public high school from a nonpublic high school that administers the GEE, the rules for nonpublic transfer students apply.

M. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1554 (July 2005), amended LR 32:

§1355. GEE Transfer Students

A. - A.1. ...

a. A student who entered the ninth grade during the 1999-2000 school year and thereafter and who transferred to a Louisiana public school at or below the ninth grade shall take and pass the English Language Arts and Mathematics sections and either the Science or the Social Studies test of GEE.

b. A student who entered the ninth grade in 1999-2000 and thereafter and who is classified by the local school district as a tenth grade student shall take and pass the English Language Arts and Mathematics tests and either the Science or the Social Studies test of GEE.

c. A student who entered the ninth grade in 1999-2000 and thereafter and who is classified by the local school district as an eleventh grade student shall take and pass either the Science or the Social Studies test of the GEE.

d. A student who entered the ninth grade in 1999-2000 and thereafter and who is classified by the local school district as a twelfth grade student shall not be required to take any part of the GEE.

2. - 2.a. ...

i. A student who returns in the seventh and/or eighth grade for a period in membership of 160 days total shall take and pass both the English Language Arts and Mathematics tests and either the Science or the Social Studies test of the GEE.

ii. A student who returns in the ninth grade shall take and pass both the English Language Arts and

Mathematics tests and either the Science or the Social Studies test of the GEE.

iii. A student who returns and is classified as a tenth grade student shall take and pass both the English Language Arts and Mathematics tests and either the Science or the Social Studies test of the GEE.

iv. A student who returns and is classified as an eleventh grade student shall take and pass either the Science or the Social Studies test of the GEE.

v. A student who returns and is classified as a twelfth grade student shall not be required to take any part of the GEE.

b. A student who was in initial membership in Louisiana public schools in the seventh and/or eighth grade for a period of 160 days total, transferred out, and subsequently returned at any grade level shall take and pass both the English Language Arts and Mathematics tests and either the Science or the Social Studies test of the GEE.

c. A student who was in initial membership in Louisiana public schools as a ninth grade student, transferred out, and subsequently returned at any grade level shall be required to take and pass both the English Language Arts and Mathematics tests and either the Science or the Social Studies test of the GEE.

d. A student who was in initial membership in Louisiana public schools as a tenth grade student, transferred out, and subsequently returned at any grade level shall take and pass both the English Language Arts and Mathematics tests and either the Science or the Social Studies test of the GEE.

e. A student who was in initial membership in Louisiana public schools as an eleventh grade student, transferred out, and subsequently returned at the eleventh- or twelfth-grade level shall take and pass either the Science or the Social Studies test of the GEE.

f. A student who was in initial membership in Louisiana public schools as a twelfth grade student, transferred out, and subsequently returned as a twelfth grader shall not be required to take any part of the GEE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1555 (July 2005), amended LR 32:

Chapter 15. Norm-Referenced Tests

§1501. Description

A. The Louisiana Statewide Norm-Referenced Testing Program (LSNRTP) was established in 1986 as a component of LEAP. The primary goal of the program is to provide parents, students, educators, and policymakers with normative data that may be used for evaluating student, school, and district performance. Test results are used by teachers and administrators to plan instructional programs that enhance educational opportunities for Louisiana students. The LSNRTP ended in 2005 with the last administration of The Iowa Tests.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1556 (July 2005), amended LR 32:

Chapter 17. Integrated LEAP

§1701. Background

A. The NCLB Act requires the development of grade-level expectations (GLEs) or grade-level content standards at grades 3 through 8 for reading and mathematics. Louisiana has supplemented its existing content standards with grade-level expectations. To create a comprehensive system, Louisiana has developed GLEs in four content areas, English language arts, mathematics, science, and social studies, for grade levels prekindergarten through 12. NCLB further requires standards-based tests (or augmented norm-referenced tests) that measure the content standards. LEAP (grades 4 and 8) and GEE (grades 10 and 11) measure the content standards, and these tests will continue. To measure the standards and GLEs at grades 3, 5, 6, 7, and 9, however, the *Integrated* LEAP (*i*LEAP) tests will be used, beginning in spring 2006. The *i*LEAP tests will replace The Iowa Tests, which were used to evaluate student performance in grades 3, 5, 6, 7, and 9 from spring 1998 to spring 2005. The term *integrated* refers to the integration of standards-based tests (CRTs) and norm-referenced tests (NRTs) into one program.

B. - B.5. ...

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1556 (July 2005), amended LR 32:

Chapter 19. LEAP Alternate Assessment, Level 1

§1901. General Provisions

A. The LEAP Alternate Assessment, Level 1 (LAA 1) is a performance-based student assessment that evaluates each student's knowledge and skills in targeted areas. It is an "on-demand" assessment; the test administrator directs the student to perform a specific task and then scores the performance after the task is completed. The LAA 1 is designed to minimize time away from instruction and direct services to students. Teachers are encouraged to administer the assessment as part of a daily routine

B. ...

C. Structure of LAA 1. The LAA 1 is based on selected Louisiana content standards. It includes 20 target indicators from the standards, five from English language arts, five from mathematics, six from social studies, and four from science. Each target indicator includes participation levels, which reflect three different levels of skill complexity: introductory, fundamental, and comprehensive. A 6-point scoring rubric provides descriptors for evaluating student performance on each of the target indicators.

D. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 (F) (3) and R.S. 17:183.1–17:183.3.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1556 (July 2005), amended LR 32:

Chapter 20. LEAP Alternate Assessment, Level 2

§2001. Description

A. LEAP Alternate Assessment, Level 2 (LAA 2) is a criterion-referenced assessment which is based on modified academic achievement standards that allows students with persistent academic disabilities who are served under the

Individuals with Disabilities Education Improvement Act (IDEA) to participate in academic assessments that are sensitive to measuring progress in their learning.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 (F) (3) and R.S. 17:183.1-17:183.3.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 32:

Chapter 25. Field Testing

§2501. General Provisions

A. ...

1. Louisiana Educational Assessment Program (LEAP);

2. Graduation Exit Examination (GEE);

3. *Integrated* LEAP (*i*LEAP);

B. LEAP and GEE field tests are conducted annually in designated content areas.

C. - C.2.f.iii. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1557 (July 2005), amended LR 32:

Chapter 27. Placement Tests

§2701. Administration and Scoring

A. …

B. Students who participate in the spring and/or summer administration of LEAP test and fail to score at the required achievement level(s) are not eligible to take The Iowa Tests for placement purposes.

C - D. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1558 (July 2005), amended LR 32:

Chapter 33. Assessment of Special Populations

§3303. Special Education Students

A. All special education students must participate in statewide assessments. Students are to take the test that corresponds to the grade in which they are enrolled. Special education students who meet specific participation criteria as stated in Bulletin 1530 Louisiana IEP Handbook for Students with Disabilities, Chapter 9 and whose Individualized Education Plans (IEPs) indicate they will participate in an alternate assessment may participate in an alternate assessment, such as the LEAP Alternate Assessment, Level 1 (LAA 1) or LEAP Alternate Assessment, Level 2 (LAA 2). The assessment in which the student is to participate and any accommodations the student is to receive for instruction and assessment must be documented annually on the program/services page of the student's IEP. Test accommodations cannot be different from or in addition to the accommodations indicated on the student's IEP and provided in regular classroom instruction and assessment.

1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1945.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1560 (July 2005), amended LR 32:

§3305. Students with One or More Disabilities According to Section 504

A. - F. ...

G. LEAP Summer Retest and GEE Summer, Fall, and February Seniors Only Retest. Students who were identified as Section 504 or who had accommodations added to their Section 504 IAP and Section 504 Testing Accommodation Verification forms after the spring assessment must be submitted on the LEAP Data Validation form to LDE 30 days before the summer or fall retest. The Section 504 Testing Accommodation Verification form and a copy of the IAP must be forwarded to the student's summer remediation and summer or fall testing site to ensure the student receives the appropriate accommodations for instruction and assessment.

H. GEE and "Old" GEE. Students who have completed their Carnegie units but are no longer enrolled in school should receive the accommodations documented on their last IEP and Section 504 Testing Accommodation Verification forms.

I. - I.6. …

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

7. - 9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:24 et seq., R.S. 17:391-400, R.S. 17:1941 et seq., R.S. 17:397, R.S. 17:1946, and R.S. 17:1947.1.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1560 (July 2005), LR 32:

§3307. Limited English Proficient Students

A. - C.3. …

4. Tests Read Aloud. Students may be allowed to have portions of the tests read to them, with the exception of portions designed to measure reading comprehension, which are clearly designated in the test administration manuals. No passages, questions, or distractors (multiple choices) of any English language arts test that measures reading comprehension may be read aloud. Such tests include the Reading and Responding session of LEAP and GEE, Reading and Language session of *i*LEAP, Reading Comprehension of the ITBS and the "old" GEE, Reading session of ELDA, and corresponding session of LAA 2, and any others developed to measure this skill. Directions only to these sessions may be read aloud. When reading aloud, the test administrator must exercise caution to avoid providing answers. It is a breach of test security to provide cues that convey answers.

5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq. and R.S. 17:24.4 (F)(3).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1562 (July 2005), amended LR 32:

Chapter 35. Assessment of Students in Special Circumstances

§3501. Approved Home Study Program Students

A. Fourth grade students from state-approved home study programs who are seeking to enroll in grade 5 must take and score basic or above on the grade 4 LEAP English Language Arts or the Mathematics test and approaching basic or above on the other test to enroll in grade 5.

B. Eighth grade students from state-approved home study programs who are seeking to enroll in grade 9 must take and score basic or above on the grade 8 LEAP English Language Arts or the Mathematics tests and approaching basic or above on either to enroll in grade 9.

C. ...

D. Students from state-approved home study programs may take the GEE in grades 10 and 11.

E. Students from state approved home study programs may take the *i*LEAP tests in grades 3, 5, 6, 7, and 9.

F. Approved home study program students shall take the test which is designated for the enrolled grade.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:236.1-17.236.2, R.S. 17:6 (A) (10) (11) (15), R.S. 17:10, R.S. 17:22 (6), R.S. 17:391.1–17: 391.10, R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1563 (July 2005), amended LR 32:

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? No.

Interested persons may submit written comments until 4:30 p.m., December 9, 2005, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 118CStatewide Assessment Standards and Practices

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

The implementation of changes requires no cost or savings to state or local governmental units. This revision to Bulletin 741 provides statewide policy and guidance for Senior Projects. It is necessary to ensure consistency and rigor for the Senior Project which is one of the possible performance indicators students can use in qualifying to receive an Academic Diploma Endorsement.

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 persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Marlyn J. Langley	H. Gordon Monk
Deputy Superintendent	Legislative Fiscal Officer
Management and Finance	Legislative Fiscal Office

0510#046

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741CLouisiana Handbook for School AdministratorsCCurriculum and Instruction
(LAC 28:CXV.2320)

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 741CLouisiana Handbook for School Administrators* (LAC Part Number CXV). This revision to Bulletin 741 provides statewide policy and guidance for Senior Projects. The Senior Project is one of the possible performance indicators students can use in qualifying to receive an Academic Diploma Endorsement. The new policy is similar to policy in other states and districts. The purpose of the policy is to provide consistency and ensure that the rigor of the Senior Project is equivalent to the other Performance Indicators for the Academic Endorsement.

Title 28
EDUCATION
Part CXV. Bulletin 741CLouisiana Handbook for School Administrators

Chapter 23. Curriculum and Instruction

§2320. Senior Projects

A. A Senior Project is a focused rigorous independent learning experience completed during the student's year of projected graduation from high school.

B. Each LEA allowing students to complete a Senior Project in partial fulfillment of the requirements for an Academic Endorsement shall develop local policy for Senior Projects that includes these requirements.

1. Each student must choose a challenging topic of interest approved by their parents or guardians and the school-level Senior Project Committee.

2. Each student must have a Senior Project mentor.

3. Students must successfully complete the four components listed below with a score of Satisfactory or higher on each component. The components will be evaluated locally using rubrics provided by the DOE:

a. research paper of eight to ten pages on an approved topic of the student's choice;

b. product or service related to the research requiring at least 20 hours of work;

c. portfolio that documents and reflects the Senior Project process;

d. presentation to a panel of three to five adults from the community and school.

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 32:

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 comments until 4:30 p.m., December 9, 2005, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 741CLouisiana Handbook for School AdministratorsCCurriculum and Instruction

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

The implementation of changes requires no cost or savings to state or local governmental units. This revision to Bulletin 741 provides statewide policy and guidance for Senior Projects. It is necessary to ensure consistency and rigor for the Senior Project which is one of the possible performance indicators students can use in qualifying to receive an Academic Diploma Endorsement.

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 persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Marlyn J. Langley	H. Gordon Monk
Deputy Superintendent	Legislative Fiscal Officer
Management and Finance	Legislative Fiscal Office

0510#045

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Emissions Factors (LAC 33:III.501)(AQ240)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air regulations, LAC 33:III.501 (Log #AQ240).

This rule clarifies requirements in LAC 33:III.919 concerning emission inventory and in LAC 33:III.507.H concerning annual compliance certification. The intent of this rule is to permit the department to determine the actual basis of apparent changes in emissions when there is an emission limit discrepancy between a facility's permitted limit (pursuant to Chapter 5) and the emission estimate reported in the facility's emission inventory statement (pursuant to Chapter 9). This rule provides a mechanism to allow the department an opportunity to assess and validate the basis of the noted emission level change. The rule clarifies how facility compliance is to be assessed when prescribed emission factors are changed. Emission factors set forth in the EPA-approved Compilation of Air Pollution Emission Factors (AP-42) and other department-approved estimation methods may be revised. A periodic review of the approved AP-42 factors or department estimation methods may cause such emission factors to be changed upward or downward due to receipt of improved data. Emissions changes due solely to changes in AP-42 factors, for some facilities, may result in changes in calculations of emissions from levels that were previously in compliance with permit limits to levels that exceed those permit limits. Those facilities that have been reporting emissions in compliance with their permits may now be reporting emissions that exceed permit limits, even though their actual emissions have not changed. As a result, these facilities face potential enforcement actions, including substantial civil penalties. Some affected facilities may elect to reduce or cease

operations due to the economic burden of these enforcement actions. This would have economic consequences for the firms involved, as well as their employees, suppliers, and customers. This proposed regulation allows the department to review these emission factor changes on a case-by-case basis. This rule will promulgate Emergency Rule AQ240E3, which was effective August 25, 2005, and published in the September 20, 2005, issue of the *Louisiana Register*. The basis and rationale for this rule is to allow the department to review emission factor changes on a case-by-case basis prior to any actions taken by the department.

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

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 5. Permit Procedures

§501. Scope and Applicability

A. - C.10. ...

11. Emissions estimation methods set forth in the Compilation of Air Pollution Emission Factors (AP-42) and other department-approved estimation methods may be promulgated or revised. Emissions increases due solely to a change in AP-42 factors do not constitute violations of the air permit. Changes in emission factors other than AP-42 factors will be evaluated by the department on a case-by-case basis for appropriate action.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 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 31:

A public hearing will be held on November 29, 2005, 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. Free parking is available in the Galvez Garage when the parking ticket is validated by department personnel at the hearing.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ240. Such comments must be received no later than December 6, 2005, 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 AQ240. This regulation is available on the Internet at www.deq.louisiana.gov under Rules and Regulations.

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.

Herman Robinson, CPM
Executive Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Emissions Factors

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

There are no expected implementation costs or savings to state or local governmental units as a result of the proposed rule.

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

There is potential for an increase in revenue collections of the state. In some instances, in the case where facility emission changes have occurred for reasons other than due solely to emissions factor changes, there is a potential that these facilities might face enforcement action including penalties. Monies recovered from civil penalties would accrue to the Hazardous Waste Site Cleanup Fund. There will be no effect on revenue collections of local governmental units.

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

There is a potential cost to directly affected persons or non-governmental groups. For some facilities that have emissions changes that are not due solely to emission factor changes, they face potential enforcement actions, including penalties. Some such facilities may elect to reduce or cease operations in cases where substantial penalties are possible, which could have severe economic consequences for the firms involved, as well as their employees, suppliers, and customers.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed action will have no effect on competition or employment.

Herman Robinson, CPM
Executive Counsel
0510#093

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Emissions Inventory (LAC 33:III.919)(AQ255)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air regulations, LAC 33:III.919 (Log #AQ255).

The 1-hour National Ambient Air Quality Standard (NAAQS) was revoked effective June 15, 2005 (69 FR 23858). The proposed rule deletes the term "1-hour" and replaces it with the term "8-hour" to refer to the currently applicable 8-hour ozone NAAQS. The rule also addresses the need for facilities to submit annual emissions inventories under LAC 33:III.5107.A, enumerates the required number of copies of the annual Certification Statement to be submitted to the department, and revises the requirements for calculations.

The 1-hour ozone standard was established by the Environmental Protection Agency (EPA) following the passage of the Clean Air Act. The 1-hour ozone standard was reviewed and revised by the EPA as per Section 109 of the Clean Air Act Amendments. The 1-hour ozone standard was replaced with a more stringent, more protective 8-hour ozone standard, which was effective June 15, 2004. The 1-hour ozone standard was revoked effective one year after the effective date of the 8-hour ozone standard, or June 15, 2005. This proposed rule deletes reference to the 1-hour ozone standard that has been revoked and refers to the current 8-hour ozone standard that is in effect. There are no new Clean Air Act requirements to comply with as a result of the transition from the 1-hour to the 8-hour standard. The basis and rationale for this rule are to continue efforts toward attainment of the ozone standard statewide and attainment of the $PM_{2.5}$ standard.

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

Title 33
ENVIRONMENTAL QUALITY
Part III. Air
Chapter 9. General Regulations on Control of Emissions and Emission Standards
§919. Emissions Inventory

Emissions inventory data shall be submitted to the department on magnetic media in the format specified by the Office of Environmental Assessment, Air Quality Assessment Division. *Facilities* are defined as all emissions points under common control on contiguous property. *Emissions point* is defined as the source of emissions that should have a Source Classification Code (SCC). Detailed instructions are provided, on an annual basis, for completing and submitting emissions inventories. The state point source emissions inventory will be compiled from the emissions inventories submitted in accordance with this Section from the facilities that meet the criteria for applicability in Subsection A of this Section. The state area source, non-road and on-road mobile source, and biogenic emissions inventories are compiled by the department from data that may be requested from other federal, state, or local agencies or other private entities.

A. …

1. Any facility located in an 8-hour ozone nonattainment parish is required to report if the facility emits or has the potential to emit any one or more of the following:

a. - d. …

2. Any facility located in a parish that adjoins an 8-hour ozone nonattainment parish is required to report if the facility emits or has the potential to emit any one or more of the following:

2.a. - 5.…

6. Any facility in Louisiana subject to the requirements of LAC 33:III.5107.A is required to report.

7. No facility classes or categories are exempted.

B. Types of Inventories

1. Annual Emissions Statement. Facilities as identified in Subsection A of this Section, shall submit an original Annual Emissions Statement (AES) and a duplicate for all criteria pollutants for which a NAAQS has been issued and for NAAQS precursor pollutants. Except as provided in Subparagraph B.2.d of this Section, the AES shall consist of an inventory of actual emissions and the allowable (permitted) emissions limits of VOC, NO_x, CO, SO_2, Pb, PM_{10}, $PM_{2.5}$, and ammonia, and an annual Certification Statement in accordance with Subparagraph B.5.a of this Section. The emissions inventory may be an initial emissions inventory for facilities submitting their first emissions inventory, or an annual emissions inventory update for facilities that have previously submitted an emissions inventory. Actual emissions shall be reported for all sources of emissions at a facility, including fugitive emissions, flash gas emissions, insignificant sources (as defined in LAC 33:III.501.B.5.Insignificant Activities List, Part A), and excess emissions occurring during maintenance, start-ups, shutdowns, upsets, and downtime. For purposes of this Section, the term *actual emissions* is the calculation or estimate of the actual emissions of a pollutant, in accordance with Subsection C of this Section, for the calendar year or other period of time if requested by the department. *Excess emissions* are defined as emissions quantities greater than normal operations. Where there is an enforceable document, such as a permit, that establishes allowable levels, the AES shall include the allowable emissions level as identified in the permit Maximum Allowable Emissions Rate Table and the allowable tons per year.

2. - 5.g.v. …

C. Calculations. Actual measurement with continuous emissions monitoring systems (CEMS) or approved stack testing shall be used for reporting of emissions from an emissions point when such data exists. In the absence of CEMS or stack test data, emissions shall be calculated using methods found in the most recent edition of, or update to, the Compilation of Air Pollution Emission Factors (AP-42), and/or calculations published in engineering journals, and/or EPA or department-approved estimation methodologies.

D. - F. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:184 (February 1993), repromulgated LR 19:485 (April 1993), amended LR 19:1418 (November 1993), LR 20:1101 (October 1994), LR 22:339 (May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2450 (November 2000), LR 29:2776 (December 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2483 (October 2005), LR 32:

A public hearing will be held on November 29, 2005, 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. Free parking is available in the Galvez Garage when the parking ticket is validated by department personnel at the hearing.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ255. Such comments must be received no later than December 6, 2005, 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 AQ255. This regulation is available on the Internet at www.deq.louisiana.gov under Rules and Regulations.

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; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374.

Herman Robinson, CPM
Executive Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Emissions Inventory

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

There are no expected implementation costs or savings to state or local governmental units by the proposed rule.

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 by the proposed rule.

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

The requirement to submit an additional copy of the Annual Emissions Statement will result in a small increase in administrative costs for the over 1,000 facilities that report emissions inventories.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition or employment by the proposed rule.

Herman Robinson	Robert E. Hosse
Executive Counsel	Staff Director
0510#075	Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor
Commission on Law Enforcement and Administration of Criminal Justice

General Subgrant Guidelines
(LAC 22:III.Chapters 41, 45, 59, 61, and 71)

In accordance with the provision of R.S. 15:1204, R.S. 14:1207, and R.S. 49:950 et seq., the Administrative Procedure Act, the Commission on Law Enforcement and Administration of Criminal Justice hereby announces this Notice of Intent to adopt rules and regulations relative to subgrants. Chapter 14 is repealed and new text has been adopted. The following Rule has been recodified for topical purposes. The changes can be seen in the chart below.

Previous Number	Current or New Number
Part III. Commission on Law Enforcement and Administration of Criminal Justice	
Subpart 1. Privacy and Security Regulation	
Subpart 2. Minimum Jail Standards	
Subpart 3. State Grant-in-Aid Program	**Subpart 3. General Subgrant Guidelines**
Chapter 41. Procedures	
§4101. Review	§4101. Applicability
§4103. Applications	§4103. Definitions
§4105. Funding	§4105. General Provisions
§4107. Training Payments	§4107. Repealed
§4109. Unawarded Funds	§4109. Repealed
§4111. Local Block Training Funds	§4111. Repealed
§4113. Subgrants	§4113. Repealed
Chapter 43. Appeals Procedure	
§4301. Appeals Procedure	
Chapter 45. Guidelines	
§4501. Approval	§4501. Limitations
§4503. Traffic-Related Grants	§4503. Eligibility
§4505. Local Criminal Justice Agencies	§4505. Indirect Costs
§4507. Personnel Costs	§4507. Regional Planning Units and Criminal Justice Coordinating Councils
§4509. Indirect Costs	§4509. Funding Restrictions
§4511. Regional Planning Units and Criminal Justice Coordinating Councils	§4511. Operational Policies
§4513. Funding Restrictions	§4513. Repealed
§4515. Renovation	§4515. Repealed

§4517. Private, Non-Profit Agencies	§4517. Repealed
§4519. Consultants and Contracts	§4519. Repealed
§4521. No-Cost Technical Assistance	§4521. Repealed
§4523. Confidential Funds	§4523. Repealed
§4525. Reimbursement for Basic Training Tuition	§4525. Repealed
§4527. Universities	§4527. Repealed
§4529. Agency on Peace Officer Standards and Training (POST) Council Note	§4529. Repealed
§4531. Eligibility	§4531. Repealed
§4533. Travel Expenses	§4533. Repealed
§4535. Lobbying	§4535. Repealed
§4537. Politically Oriented Material	§4537. Repealed
§4539. Child Abuse/Neglect Projects	§4539. Repealed
§4541. Computers	§4541. Repealed
§4543. Requirement Analysis	§4543. Repealed
Subpart 4. Peace Officers	
Chapter 47. Standards and Training	
Subpart 5. Crime Victim Assistance	**Subpart 5. Grant Application or Subgrants Utilizing Federal, State or Self-Generated Funds**
Chapter 49. Policies and Procedures	Moved to Subpart 6, Chapter 61.
Chapter 51. Appeals Procedure	
Chapter 53. Drug Abuse Resistance Education (D.A.R.E.)	
Chapter 55. Uniform Crime Reporting System	
Chapter 57. Formula for Distribution of Federal Grant Funds	
Subpart 6. Grant Applications or Subgrants Utilizing Federal, State or Self-Generated Funds	**Subpart 6. Program Operational Policies**
	Chapter 59. Drug Policy and Violent Crime Advisory Board
	§5901. Adoption
	§5903. Introduction
	§5905. Program Rules
Chapter 61. Code of Professional Conduct	Moved to Subpart 7, Chapter 71
Chapter 49. Policies and Procedures	Chapter 61. Policies and Procedures
§4901. Introduction	§6101. VOCA and VAWA Grants
Subpart 7. Asset Forteiture	
Chapter 61. Code of Professional Conduct	Chapter 71. Code of Professional Conduct
§6101. Adoption	§7101. Adoption
§6102. Introduction	§7102. Introduction
§6103. Code of Professional Conduct	§7103. Code of Professional Conduct

Title 22
CORRECTIONS, CRIMINAL JUSTICE, AND LAW ENFORCEMENT
Part III. Commission on Law Enforcement and Administration of Criminal Justice
Subpart 3. General Subgrant Guidelines
Chapter 41. Procedures
§4101. Applicability

A. These rules apply to all subgrants available from the Louisiana Commission on Law Enforcement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 32:

§4103. Definitions

A. Definitions

*Federal Guidance*Crefers to all published federal regulations, rules, and guidance with general applicability or specific applicability to a particular block or formula grant program.

*Subgrant*Ca grant issued pursuant to a federal or state block grant or formula program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 32:

§4105. General Provisions

A. All subgrants must comply with applicable federal laws, regulations and guidance, as well as all applicable state laws, regulations and rules.

B. No subgrant award will be issued until all applicable certifications and assurances have been signed by the responsible authority.

C. All applications must be received by LCLE by the deadline established for the commission meeting for which they are being submitted. Any application received after that time will not be presented until the commission meeting following the meeting for which it was originally scheduled, unless specifically approved by the executive director and chairman of the commission for lay out.

D. No subgrant will be considered by the commission until reviewed by the appropriate advisory board unless said subgrant is not part of a program subject to such review.

E. The Louisiana Commission on Law Enforcement must approve all subgrants before any award will be made.

F. All subgrant progress reports must be submitted in a timely fashion or draw down of funds may be suspended.

G. All subgrants are subject to audit and monitoring by the responsible authority. Subgrantees are required to cooperate fully with any such inquiry or all unexpended funds may be frozen.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 32:

§4107. Training Payments

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:64 (February 1982), amended LR 11:252 (March 1985), repealed LR 32:

§4109. Unawarded Funds

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:64 (February 1982), amended LR 11:252 (March 1985), repealed LR 32:

§4111. Local Block Training Funds

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 11:252 (March 1985), repealed LR 32:

§4113. Subgrants

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:64 (February 1982), amended LR 11:252 (March 1985), repealed LR 32:

Chapter 45. Guidelines

§4501. Limitations

A. Any thing in this guidance that is in conflict with applicable federal law, regulation or guidance, or with applicable state law shall not prevail.

B. All funding received by an agency, department, or organization may be subject to budget reductions as applied against LCLE by the funding authority under which the subgrant is received.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 32:

§4503. Eligibility

A. Eligibility to apply or receive funding under any subgrant subject to this Subpart shall be governed by the applicable federal law, rules and guidance, or state law and operational policies of the commission.

B. By a two-thirds vote, the commission may waive any restrictions on eligibility made pursuant to the commission's operational policies, provided such waiver does not violate federal law, rules, or guidance, or, in the case of state funded grant programs, state law or rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:64 (February 1982), amended LR 11:253 (March 1985), LR 32:

§4505. Indirect Costs

A. Indirect costs are ineligible expenditures under any state grant program, unless specifically permitted by the law creating such program.

B. Indirect costs on federal subgrants are subject to federal guidance and may be limited further by the respective advisory boards. Indirect costs are not to exceed 10 percent of direct labor costs including fringe benefits, or 5 percent of total direct costs. A current Indirect Cost Rate or Allocation Plan previously approved by the cognizant federal agency must be on file with LCLE before submittal of applications to the respective advisory boards. Indirect costs are prohibited for Crime Victim Assistance projects.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:63 (February 1982), amended LR 11:253 (March 1985), LR 32:

§4507. Regional Planning Units and Criminal Justice Coordinating Councils

A. No subgrant funds may be used for the expenses of Regional Planning Units (RPU's) or Criminal Justice Coordinating Councils (CJCC's). This provision does not prohibit the award of a subgrant to a RPU or CJCC for specific purposes not related to the normal operations of those offices.

B. The commission may make direct grants of administrative funds to RPU's or CJCC's. Any such grants are subject to reduction based on reductions received by LCLE from the responsible funding authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:63 (February 1982), amended LR 11:253 (March 1985), LR 32:

§4509. Funding Restrictions

A. No traffic-related subgrants will be eligible, with the exception of driving while intoxicated (DWI) and substance abuse related projects.

B. There is a general prohibition on the funding of the following items:

1. vehicles (automobiles, vans, airplanes, boats, etc.), gasoline, tires, vehicle repair, maintenance, or insurance;
2. automobile accessories except radio and information technology equipment;
3. uniforms;
4. recreational equipment;
5. real property;
6. lobbying activities or the design, development, publishing or distribution of politically oriented material.

C. There are specific restrictions limiting the funding of the following items.

1. Renovations are limited to a maximum of $25,000, and then will be allowable only on agency-owned or long-term lease (five years or more) facilities.
2. Consultants are limited to planning, evaluation, research, development and training programs. Consultant services that are available as no-cost technical assistance through a federal or state program are not eligible for funding. Consultant contracts and agreements must receive approval from LCLE, prior to the release of funds.

D. There are special requirements relative to the following.

1. Private, Non-Profit Agencies. Private, non-profit agencies, with the exception of an RPU or CJCC, will be required to have a current surety bond equal to the amount of the grant.
2. Confidential Funds. The use of confidential funds is subject to special operational policies and regulations of the LCLE and federal guidelines.
3. Information Reporting. State and local criminal justice agencies must comply with all requests for information mandated by LCLE. This requirement includes full participation in the Uniform Crime Reporting Program for those agencies eligible to report, including participation in the Louisiana Incident Based Crime Reporting System when appropriate.
4. Travel Expenses. All travel expenses will be based on state travel regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:64 (February 1982), amended LR 11:252 (March l985), LR 32:

§4511. Operational Policies

A. The various program advisory boards may recommend to the commission, or the commission may adopt on its own motion, specific operational policies relative to the funding of specific project types, eligibility for funding, or additional restrictions and/or limitations on funding, as well as monitoring, evaluation, or reporting requirements as deemed prudent in the administration of specific grant funds. Such regulations shall be in conformity and not inconsistent with these general guidelines, or with applicable state or federal law, regulation, or rules. Such operational guidelines shall be reviewed by the commission at least once every four years and adopted by a two-thirds vote. The commission may waive such operational policies provided the potential subgrantee has made written request for such a waiver and the waiver granted by a two-thirds vote of the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 32:

§4513. Funding Restrictions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:63 (February 1982), amended LR 11:253 (March 1985), repealed LR 32:

§4515. Renovation

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:63 (February 1982), amended LR 11:253 (March 1985), repealed LR 32:

§4517. Private, Non-Profit Agencies

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:63 (February 1982), amended LR 11:253 (March 1985), repealed LR 32:

§4519. Consultants and Contracts

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:63 (February 1982), amended LR 11:253 (March 1985), repealed LR 32:

§4521. No-Cost Technical Assistance

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:63 (February 1982), amended LR 11:253 (March 1985), repealed LR 32:

§4523. Confidential Funds

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:64 (February 1982), amended LR 11:253 (March 1985), repealed LR 32:

§4525. Reimbursement for Basic Training Tuition

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:64 (February 1982), amended LR 11:253 (March 1985), repealed LR 32:

§4527. Universities

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:64 (February 1982), amended LR 11:253 (March 1985), repealed LR 32:

§4529. Agency on Peace Officer Standards and Training (POST) Council Notice

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:64 (February 1982), amended LR 11:253 (March 1985), repealed LR 32:

§4531. Eligibility

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:64 (February 1982), amended LR 11:253 (March 1985), repealed LR 32:

§4533. Travel Expenses

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:63 (February 1982), amended LR 11:253 (March 1985), repealed LR 32:

§4535. Lobbying

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:64 (February 1982), amended LR 11:253 (March 1985), repealed LR 32:

§4537. Politically Oriented Material

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:64 (February 1982), amended LR 11:253 (March 1985), repealed LR 32:

§4539. Child Abuse/Neglect Projects

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of

Criminal Justice, LR 8:64 (February 1982), amended LR 11:253 (March 1985), repealed LR 32:

§4541. Computers

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:64 (February 1982), amended LR 11:253 (March 1985), repealed LR 32:

§4543. Requirement Analysis

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:64 (February 1982), amended LR 11:253 (March 1985), repealed LR 32:

Subpart 6. Program Operational Policies

Chapter 59. Drug Policy and Violent Crime Advisory Board

§5901. Adoption

A. The following operational policies are hereby adopted by the Drug Policy and Violent Crime Advisory Board pursuant to LAC 22 Part III Subpart 3 Chapter 45, §4511 and shall be effective upon approval of the Louisiana Commission on Law Enforcement as provided therein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 32:

§5903. Introduction

A. All programs assigned by the commission to the Drug Policy and Violent Crime Advisory Board shall be governed by the rules set forth in this Section, unless explicitly removed from one or more of them by a vote of the commission upon the recommendation of the Drug Policy and Violent Crime Advisory Board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 32:

§5905. Program Rules

A. Governance. The rules and governance of the federal grant program shall be followed in all cases. Should federal programs be assigned to the Drug Policy and Violent Crime Advisory Board, which are more restrictive than those contained in this Section, the federal rule shall prevail. Subgrantees are responsible for compliance with all federal and state governance, regulations, and certifications applicable to their subgrant.

B. Match

1. All grant programs shall be matched in an amount not less than 25 percent of the total grant award.

2. Grants may be matched on an aggregate or statewide basis.

C. Funding

1. Administrative funds may be allocated from the total block grant Award in an amount not to exceed the maximum established in the federal guidance.

2. After administrative funds are allocated, no more than 25 percent of the block grant funds may be allocated to state agencies or departments, unless otherwise required by the applicable federal guidance.

3. The remaining allocations shall be distributed among the Regional Planning Districts as determined by the most recent formula adopted by the commission, unless otherwise specified in the federal guidance.

4. A minimum of 5 percent of the total block grant, exclusive of administrative funds, shall be for criminal record improvement programs.

D. Programs

1. All applications for funding shall specify a program, and not merely equipment or supplies.

2. Equipment and supplies are fundable items unless otherwise specified in the operational policies, but must be part of a program.

3. Eligible programs shall be defined in the operational policies of the Drug Policy and Violent Crime Advisory Board. When the operational policies are silent, the federal eligibility requirements shall serve as the determining governance. The operational policies may be more restrictive but not more inclusive than the federal guidance, unless otherwise stipulated in the federal guidance.

4. No program shall receive funding for a period greater than 48 months, with the exception of Criminal Records Improvement projects, training, and multi-jurisdictional task forces.

E. Waiver. The commission may waive any of the policies contained in this Section provided:

1. an agency or organization eligible to receive funding under the applicable federal guidance submits a written request for waiver to the drug policy and Violent Crime Advisory Board; and

2. the Drug Policy and Violent Crime Advisory Board votes to recommend the waiver to the commission; and

3. the commission approves the waiver by a two-thirds vote of the members present and voting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 32:

Chapter 61. Policies and Procedures [formerly Chapter 49]

§6101. VOCA and VAWA Grants [formerly §4901. Introduction]

A. The issues of services to victims of crime, underserved victims and an increased awareness of the prevalence and severity of domestic violence and violence against women coupled with the increased availability of federal funds to address these issues at the state, regional and local levels, have led to federal grant programs designed to focus on these topics. The Louisiana Commission on Law Enforcement has been named as the cognizant state agency for the federal programs and will make available to appropriate non-profit and public agencies grant funds, to be spent in accordance with federal program guidelines and the guidelines of the Victim Services Advisory Board and the Louisiana Commission on Law Enforcement.

B. The Victims of Crime Act of 1984 (VOCA) established within the U.S. Treasury an account funded by federal fines, penalties and forfeited bail bonds to be used for the purpose of funding victim assistance grants to the

states. These grants are to be used for programs that provide direct services to victims of crime, with priority given to programs that have as their principal mission direct assistance to victims of sexual assault, spouse abuse, child abuse and previously underserved victims of crime. VOCA funds in the state are administered by the Louisiana Commission on Law Enforcement in consultation with the Victim Services Advisory Board to the Commission. The VOCA program in Louisiana is administered pursuant to the federal regulations in effect for the program.

C. For more information, interested persons may contact the Victim Services Section of the Louisiana Commission on Law Enforcement.

D. The Violence Against Women Act (VAWA) of 1994 is enabling legislation that has as its intent the reduction of violence to encourage states and localities to restructure and strengthen their criminal justice response to this issue and to be proactive in dealing with the problem of domestic violence. The STOP (Services-Training-Officers-Prosecution) Program is the implementation aspect of VAWA and seeks to develop and strengthen effective law enforcement and prosecution strategies to combat violent crime against women and to develop and strengthen victim services in cases involving violent crimes against women. Unlike VOCA, monies are appropriated by Congress for this program. These funds are divided equally between law enforcement, prosecution and non-profit service providers and are administered by the Louisiana Commission on Law Enforcement in consultation with Victim Services Advisory Board. The VAWA program in Louisiana is administered pursuant to the federal regulations in effect for the program.

E. For more information, interested persons may contact the Victim Services Section of the Louisiana Commission on Law Enforcement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and 1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 15:1071 (December 1989), amended LR 29:2376 (November 2003), repromulgated LR 32:

Subpart 7. Asset Forfeiture

Chapter 71. Code of Professional Conduct [formerly Chapter 61]

§7101. Adoption [formerly §6101]

A. The Louisiana Commission on Law Enforcement and Administration of Criminal Justice has adopted a code of professional conduct for asset forfeiture at a meeting held Tuesday, December 2, 1997.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 24:935 (May 1998), repromulgated LR 32:

§7102. Introduction [formerly §6102]

A. The purpose of the *Code of Professional Conduct* is to establish ethical standards applicable to asset forfeiture programs throughout the state of Louisiana. These standards are similar to the *National Code of Professional Conduct for Asset Forfeiture*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 24:935 (May 1998), repromulgated LR 32:

§7103. Code of Professional Conduct [formerly §7103]

A. Law enforcement is the principal objective of forfeiture. Potential revenue must not be allowed to jeopardize the effective investigation and prosecution of criminal offenses, officer safety, the integrity of ongoing investigations, or the due process rights of citizens.

B. A prosecutor's or sworn law enforcement officer's employment or salary shall not be contingent upon the level of seizures or forfeitures he or she achieves.

C. Whenever practical, and in all cases involving real property, a judicial finding of probable cause shall be secured when property is seized for forfeiture. Seizing agencies shall strictly comply with all applicable legal requirements governing seizure practice and procedure.

D. A judicial finding of probable cause must be secured as provided by law.

E. Seizing entities shall have a manual detailing the statutory grounds for forfeiture and all applicable policies and procedures.

F. The manual shall include procedures for prompt notice to interest holders, the expeditious release of seized property where appropriate, and the prompt resolution of claims of innocent ownership.

G. All property forfeited must be sold at public sale, and the proceeds distributed according to law.

H. Unless otherwise provided by law, forfeiture proceeds shall be maintained in a separate fund or account subject to appropriate accounting controls and annual financial audits of all deposits and expenditures.

I. Seizing agencies shall strive to ensure that seized property is protected and its value preserved.

J. Seizing entities shall avoid any appearance of impropriety in the sale or acquisition of forfeited property.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 24:935 (May 1998), repromulgated LR 32:

Interested persons may submit written comments on this proposed Rule no later than December 10, 2005 at 5 p.m. to Bob Wertz, Louisiana Commission on Law Enforcement, l885 Wooddale Boulevard, Room 1230, Baton Rouge, LA 70806.

Michael A. Ranatza
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: General Subgrant Guidelines

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

The revision and simplification of existing rules will not have any impact on expenditures for state or local governmental units as policies which have been standard practice for many years have been incorporated into the administrative rules.

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

Implementation of the proposed rule will not increase revenue collections of state or local governmental units.

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

It is estimated that implementation of the proposed rules will have little or no effect on directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition or employment in the public or private sector as a result of this proposal.

Michael A. Ranatza
Executive Director
0510#040

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor
Commission on Law Enforcement and Administration of Criminal Justice

Peace Officer Training (LAC 22:III.4771)

In accordance with the provision of R.S. 40:2401, et. seq., the Peace Officer Standards and Training Act, and R.S. 40:905 et seq., which is the Administrative Procedure Act, the Peace Officer Standards and Training Council hereby gives notice of its intent to promulgate rules and regulations relative to the training of peace officers.

Title 22
CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT
Part III. Commission on Law Enforcement and Administration of Criminal Justice
Subpart 4. Peace Officers
Chapter 47. Standards and Training
§4771. Emergencies and/or Natural Disasters

A. All previously certified and registered peace officers who have retired from full time law enforcement service for five years or more will be granted the authority to serve as "provisional peace officers" for the agency from which they retired during a state of emergency within a declared emergency zone. The 'provisional peace officer" applicant must successfully qualify with his/her duty weapon as soon as possible with a P.O.S.T. certified firearms instructor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 32:

Interested persons may submit written comments on this proposed Rule no later than November 25, 2005 at 5 p.m. to Bob Wertz, Peace Officer Standards and Training Council, Louisiana Commission on Law Enforcement, l885 Wooddale Boulevard, Room 1230, Baton Rouge, LA 70806.

Michael A. Ranatza
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Peace Officer Training

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

To the extent that state and local governments rehire retired peace officers during a state of emergency, there will be increased expenditures for state or local governmental units. The level of expenditures would be dependent on the nature of the emergency and its duration.

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

Implementation of the proposed rule will not affect revenue collections of state or local governmental units.

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

There may be economic benefits to the retired peace officers hired during the emergency.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be a positive effect on employment in the public sector as a result of this proposed amendment for the persons hired on a temporary basis during the emergency.

Michael A. Ranatza
Executive Director
0510#041

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor
Division of Administration
Office of State Uniform Payroll

Payroll Deduction (LAC 4:III.Chapter 1)

In accordance with R.S. 42:455, notwithstanding any other provision of law to the contrary, the Office of the Governor, Division of Administration, Office of State Uniform Payroll is proposing to adopt the following Rule amending the regulations governing payroll deductions. The purpose of the amendment is to adopt changes as recommended by the Uniform Payroll Insurance Commission, to reorganize the sections of the Rule to eliminate repetitive details, and to further define and clarify parameters for vendors.

Title 4
ADMINISTRATION
Part III. Payroll
Chapter 1. Payroll Deductions
§101. Definitions

Administrative Contract—contractual agreement entered into by the state with an entity which meets or exceeds the requirements to manage a Flexible Benefits Plan.

Administrative Coordinator—a statewide vendor designated representative who provides the single authorized contact for communication between the vendor and state departments/agencies, company representatives, the Division of Administration, Office of State Uniform Payroll, payroll systems outside of the ISIS HR payroll system and any administrative contract(or).

Agency Number—three digit identifier representing a single agency in the ISIS HR payroll system which serves as a key for processing and reporting.

Annual Renewal Application—the process through which a statewide vendor requests continued deduction authorization by providing verification of company status, employee participation, remittance reconciliation, designated coordinator, etc.

Applicant—any entity which has submitted an application to be approved as a statewide vendor for state payroll deduction or a statewide vendor which has submitted an application for approval of an additional product.

Billing Coordinator—statewide vendor representative appointed by the Administrative Coordinator to handle the areas of billing, reconciliation problems and refunds.

Data File—the body of information documented by copies of correspondence between the Office of State Uniform Payroll, the Office of Group Benefits, administrative contractor, departments/agencies, vendors, Department of Insurance, and state employees relative to employee solicitation, participation and service from vendors.

Deduction—any voluntary reduction of net pay under written authority of an employee, which is not required by federal or state statute, or by court ordered action.

Department/Agency—as referenced herein shall be any one of the major departments of the executive branch of state government or any subdivision thereof as defined under R.S. 36:4.

Department Head—as referenced herein shall be any elected official, department secretary or their designee for those agencies as defined under R.S. 36:4.

Division of Administration (DOA)—the Louisiana State Agency under the Executive Department which provides centralized administrative and support services to state agencies as a whole by developing, promoting, and implementing executive policies and legislative mandates.

Employee Payroll Benefits Committee (EPBC)—the group designated in §103 to review current and prospective payroll deduction benefits.

Entity—the individual or organization which renders service, provides goods, or guarantees delivery.

Flexible Benefits Plan (FBP)—the program initiated by the state under which employees may participate in tax reduction benefits offered under Internal Revenue Code (IRC) §125.

Flexible Benefits Plan Year—the annual period of time designated for participation (e.g., July 1 through June 30).

Governing Board—as referenced herein shall mean any one or all of: Board of Regents; Louisiana State University Board of Supervisors; Southern University Board of Supervisors; University of Louisiana Board of Supervisors; and Board of Supervisors of Community and Technical Colleges.

Guidelines for Review—as referenced herein shall mean the set of criteria established for the annual evaluation process.

Insurable Interest—as referenced herein shall be as defined in R.S. 22:613.C.(1) and (2), e.g., an individual related closely by blood or by law, or a lawful and substantial economic interest in having the life, health or bodily safety of the individual insured continue.

Integrated Statewide Information System Human Resource Payroll System (ISIS HR)—the statewide system administered by the Division of Administration, Office of State Uniform Payroll to provide uniform payroll services to state agencies.

Intra-Agency Deduction—a deduction established by the department/agency for cost effective collection of funds from employees for benefits provided, such as meals, housing, uniforms, etc.

Intra-Agency Vendors—any entity having the Office of State Uniform Payroll's approval for an intra-agency deduction.

Louisiana Sales Coordinator—statewide vendor representative appointed by the Administrative Coordinator to handle the areas of solicitation and educational responsibilities.

New Application—the process through which an entity submits a request to be approved as a statewide vendor to offer a specific product, or a current statewide vendor requests authorization to offer an additional product, policy form, or service plan.

Office of State Uniform Payroll (OSUP)—the section within the Division of Administration primarily responsible for the administration of the rules governing state employee payroll deductions.

Policy Form—referenced herein shall mean a contract of an individual insurance plan, and all it's components, which is submitted to the Department of Insurance and subsequently approved for sale in Louisiana by the Commissioner of Insurance.

Premium Due—the amount of money the vendor expects to receive for the product or service provided to the employee.

Product—referenced herein shall mean the specific insurance authorized through the statewide vendor annual renewal or new application process as defined in §106. This may include multiple policy forms and service plans under the product.

Product Code—the code assigned by the Office of State Uniform Payroll to specific products authorized through the new application process.

Reconciliation—referenced herein refers to the resolution of differences resulting from a monthly match or comparison of vendor accounts receivable/invoice records to the state deduction/remittance records at the product level.

SED-3—referenced herein shall be the standard form, Department Request for Payroll Deduction Vendor, required to be submitted with any new application.

SED-4—as used herein shall mean the standard State Employee Payroll Deduction Authorization form developed by the Division of Administration, Office of State Uniform Payroll used to process employee statewide vendor deductions.

Service Plan—plans of insurance where benefits are the actual services rendered to the covered individual rather than a monetary benefit.

Statewide Vendors—any entity having deductions other than statutory or intra-agency specific.

Statutory Vendors—any entity having deductions mandated or permitted by federal or state statute which includes, but is not limited to union dues, credit unions, IRC §457 and §403(b) plans, health and life insurance products sponsored by the Office of Group Benefits, retirement systems, Student Tuition Assistance and Revenue Trust Program (START), qualified United Way entities and savings bonds.

University—any one of the state higher education facilities which falls under the jurisdiction of appropriate "Governing Board."

Vendor Representative—as referenced herein shall be any licensed agent or duly appointed representative designated by a vendor to market that vendor's authorized product(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), LR 26:1026 (May 2000), LR 32:

§102. Deduction Rule Authority/Applicability

A. OSUP is responsible for the administration of the rules governing state employee payroll deductions. Products that are authorized through OSUP are for all state employees and all state agencies of the executive branch of state government as defined under R.S. 36:4. There are two exceptions to this.

1. Governing boards of higher education facilities have the authority to approve additional products or remove any product per the boards' established policies.

a. Vendors approved by governing boards must follow the governing boards policy and procedures for renewal and new application submission.

b. Each Governing Board shall provide a report relative to vendors currently approved for deductions within each system as well as any additional information as requested by OSUP.

2. Intra-agency deductions approved by OSUP are only approved for the agency requesting the deduction and not statewide.

B. The three classifications of vendors covered by this rule are:

1. statutory vendorsCapplicable sections of this rule are §122, 131 and 137;

2. intra-agency vendorsCapplicable sections of this rule are §122, 131 and 137; and

3. statewide vendorsCapplicable sections of this rule are §106, 112, 114, 119, 131 and 137. Statewide vendor applications are reviewed and approved by the EPBC.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 32:

§103. Employee Payroll Benefits Committee (EPBC)

A. A committee comprised of 12 nominated and two ex-officio state employees of the departments of the executive branch of state government as defined under R.S. 36:4.A and the Office of the Governor established by the Commissioner of Administration to fulfill the requirements of §106 and §112 of this rule. Ex-officio members shall be: director or assistant director of OSUP and a designee of the Commissioner of Insurance.

B. Initial members of the EPBC were selected prior to July 1, 1996 by the Uniform Payroll System Payroll Steering Committee submitting a list of nominees for EPBC membership to the Commissioner of Administration.

C. Members serve staggered terms as follows:

1. 4 members, one year term;
2. 4 members, two year term; and
3. 4 members, three year term.

D. There cannot be more than one committee member per department of the executive branch of state government as defined under R.S. 36:4.A or the Office of the Governor.

E. Successive committee appointments shall be for a period of three years beginning July 1.

F. Prior to May 1, annually, EPBC shall submit, to the Commissioner of Administration, three nominees for each of the four vacancies which will occur each year.

G. The Commissioner of Administration shall select four of the nominees to fill respective department/agency vacancies for EPBC membership.

H. The Commissioner of Administration shall return a list of appointees to OSUP prior to June 1 each year.

I. Any EPBC vacancy which occurs due to termination of employment or retirement of a member, and which creates a vacancy for a period of 12 months or more, shall be filled by appointment by the Commissioner of Administration.

1. Within 30 days of notice of the vacancy, the EPBC shall submit a nominee for replacement to the Commissioner of Administration.

2. The Commissioner of Administration shall affirm or reject the nomination within 30 days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 22:22 (January 1996), amended LR 26:1026 (May 2000), LR 32:

§105. EPBC Selection and Tenure

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 22:22 (January 1996), amended LR 26:1026 (May 2000), repealed LR 32:

§106. Statewide Vendor Annual Renewal and New Application Process

A. All currently approved statewide vendors shall file an annual renewal application with the Division of Administration, Office of State Uniform Payroll as scheduled by that office.

B. Written notice of requests for a new statewide vendor payroll deduction or for current vendors to add additional products or to add additional policy forms or service plans under the current products should be sent to OSUP prior to December 1 annually, in order for the vendor to receive an application form from OSUP. Applications for the purpose of providing deductions for IRA's, annuities, noninsurance investment programs or group plans are not permitted.

C. On or before January 1 annually, OSUP will provide deduction application forms along with instructions for completion to each renewal and new entity on file.

D. On or before January 31 annually, Renewal and New Applications must be completed and submitted to the Division of Administration, Office of State Uniform Payroll, PO Box 94095, Baton Rouge, LA 70804 or 1201 N. Third St, Ste 6-150, 70802.

1. Application shall be made by the entity which is the provider of the product or recipient of monies and shall be signed by two principal officers of the applicant entity.

2. The application shall:

a. be submitted on a currently approved application form provided by OSUP to the vendor;

b. indicate whether the application is an annual application (renewal) or a new application for a product, policy form or service plan not previously approved for deduction;

c. identify each policy form for specific product provided on the application form;

d. include certification (SED-3 form) from the department head of the requesting department for new applications. Department certification attests that said applicant has provided evidence that the vendor meets or exceeds the requirements of R.S.42:455, that said applicant has knowledge of the requirements of this rule, and that the department/agency believes this product/policy/service plan would be a benefit for the employees of the department/agency. Certification does not represent endorsement of product by state or department. Administrative responsibilities of this rule shall preclude the DOA from sponsoring applicants for vendor deduction authorization;

e. indicate whether the request is for participation within a specific department/agency by choice (ability to service or applicability), or for statewide authority limited to certain payroll system(s);

f. designate an "administrative coordinator" to represent the vendor as primary contact. Refer to Statewide Vendor Requirements and Responsibility §114 for complete details;

g. include responses to all applicable items (designated in instructions) on the application form for new and annual renewal applications.

E. On or before April 1 each year, OSUP will conduct a compliance review and shall notify vendors of any products that will be removed due to not meeting the participation requirements in §114.C.3. In a separate letter, the vendor will be notified whether their annual application has been conditionally approved.

F. Between February and October each year, the EPBC shall conduct a thorough review of all products authorized for deduction and new applications.

1. EPBC shall maintain basic guidelines for review to follow in the conduct of the annual review of statewide vendor products. These guidelines are on file at OSUP and available upon request.

2. The EPBC shall utilize the data file maintained by OSUP to evaluate user satisfaction with products and vendors and the Guidelines for Review to evaluate product quality.

a. OSUP shall maintain a data file of documentation provided each year by user agencies, employees, vendors, and FBP administrator relative to product utilization, services provided, and adherence to department/agency policy and this rule.

b. OSUP shall copy to the data file all correspondence relating to resolution of problems with and between vendors, employees, and departments/agencies.

c. OSUP shall include the basic information from annual application process and from new applications in the data file provided to EPBC.

3. Vendor shall respond to all additional questions as required by EPBC.

G. On or before October 1 annually, the EPBC shall issue a summary report of opinions resulting from the annual review of products and new applications, along with recommended actions to the Commissioner of Administration.

H. OSUP shall provide the Commissioner of Administration recommendations from EPBC and information relative to vendor/product compliance with all other provisions of this rule.

I. On or before November 1 annually, the Commissioner of Administration shall advise OSUP whether EPBC recommendations relative to current products and new applications have been accepted or denied.

J. On or before November 30 annually, OSUP will:

1. notify those vendors with new applications whether their requests were approved or denied. Approval of an applicant in no way constitutes endorsement or certification of the applicant/vendor by the state;

2. notify the affected vendors if any problems were identified during the EPBC review and advise on any necessary actions;

3. notify ISIS HR payroll system user agencies and other departments/agencies and Governing Boards of authorized deductions by vendor and product name, providing ISIS HR system information and the effective date. Governing Boards shall notify universities.

K. Payroll systems outside of the ISIS HR payroll system will advise vendors whether the deduction will be established.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 32:

§107. EPBC Product Evaluation (Requirements)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 22:22 (January 1996), amended LR 26:1026 (May 2000), repealed LR 32:

§109. EPBC Product Evaluation (Annual Applications)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 22:22 (January 1996), amended LR 26:1027 (May 2000), repealed LR 32:

§111. EPBC Product Evaluation (New Applications)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 22:22 (January 1996), amended LR 26:1027 (May 2000), repealed LR 32:

§112. Statewide Vendor Requests for Enhancements/Changes to Products

A. Requests for enhancements to existing statewide vendor products, policies or service plans must be submitted to OSUP for review and approval by May 1 and November 1 annually.

1. Enhancements to policies occur when:

a. a vendor requests to broaden an existing, solicited policy's benefits/coverage;

b. a vendor requests the existing, solicited policy to be replaced by the enhanced policy;

c. the vendor stops soliciting the existing policy;

d. current policyholders may choose to keep the existing policy or convert to the enhanced policy; and

e. new policyholders must purchase the enhanced policy.

2. OSUP and the EPBC will review the request and notify the vendor of approval or denial by July 1 and January 1 annually.

a. If approved, OSUP will include in the approval notification the procedures for implementing the enhancement for August 1 and February 1 annually.

b. If denied, OSUP will add the vendor to the file of vendors for new applications. (See §106 for new application process).

B. Notification of policy changes must be submitted to OSUP by December 1 annually.

1. Changes, including but not limited to, rate changes, co-payment changes and reduction in benefits occur when:

a. a vendor requests an existing, solicited policy to be changed;

b. current policyholders must choose to either accept the changed policy or terminate the policy; and

c. new policyholders must purchase the changed policy.

2. OSUP will review the information submitted and notify the vendor by February 28 annually and provide procedures for implementing the policy change for July 1 annually.

3. Policy changes not submitted to OSUP will not be allowed.

C. Requests that do not meet an enhancement or a change classification, will be reviewed by OSUP to determine what procedures the request will follow.

D. Requests for exceptions to this policy shall be justified, documented and submitted in writing to OSUP for consideration.

E. OSUP will coordinate procedures with vendors on all policy changes that are mandated by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 26:1027 (May 2000), LR 32:

§113. Product Approval and Notification

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 22:22 (January 1996), amended LR 26:1027 (May 2000), repealed LR 32:

§114. Statewide Vendor Requirements and Responsibility

A. Any statewide vendor applicant for deduction, domestic or foreign, regulated by the Department of Insurance shall meet the minimum requirements set forth in R.S. 42:455.

B. Statewide vendor applicants for deductions not regulated by the Department of Insurance shall:

1. possess appropriate license or other required certification for providing the particular product or service for a fee;

2. have been doing business in this state for not less than five years providing the product and/or services anticipated to be offered state employees;

3. be in compliance with all requirements of any regulatory and/or supervisory office or board charged with such responsibility by state statute or federal regulations;

4. provide to the Commissioner of Administration within 30 days of approval an irrevocable Letter of Credit in the amount of $100,000, or an irrevocable pledge of a Certificate of Deposit in the amount of $100,000 to protect the state and any officer or employee from loss arising out of participation in the program or plan offered by the vendor.

C. Vendors shall:

1. provide annual renewal application as set forth in §106 of this rule;

2. maintain the requirements set forth in A. and B. of this section;

3. maintain individual product (product categories as defined by OSUP) participation levels that meet or exceed 100 employees paid through the ISIS HR payroll system. Vendors will be allowed twelve months after initial product approval to meet the minimum product participation requirements;

4. solicit employees for payroll deduction only:

a. after notification to the vendor and state department/agencies from OSUP that the product has been approved;

b. upon written authorization and within the solicitation policy established by the department/agency; and

c. for those products, policy forms or service plans submitted and approved in the annual renewal or new application process.

5. provide and use the standard deduction authorization form (SED-4) authorized by OSUP using the guidelines below.

a. Deduction form is not authorized to be submitted from an employee for the purpose of transmitting any part of that deduction to a non-approved vendor.

b. Deduction form shall not be submitted which lists any product or service for which a product code has not been approved.

c. Deduction form may include additional information provided that such information shall not represent a disclaimer or escape clause(s) in favor of the vendor. The authorization shall not stipulate any "contract" or "term of participation" requirements.

d. The authorization must specify product name, IRC §125 eligibility, monthly premium or fee, and the semi-monthly (24 annually) premium or fee. Statewide vendor deductions in the ISIS HR payroll system must be semi-

monthly deduction amounts only (to the second decimal place). Payroll systems outside of the ISIS HR payroll system which permit monthly deductions may continue same.

e. An employee shall have only one deduction authorization (which may cover more than one product/policy) for a single vendor effective at any one time. Total current deduction amount and each component amount that make up that total must be reflected on any successive form(s).

f. Vendor shall be responsible for completing authorization forms prior to obtaining employee signature and for submitting forms to the appropriate payroll office designated by each employing department/agency.

g. Deduction forms must contain appropriate agency number to support monthly reconciliation process.

h. Deduction authorization shall not be processed for any employee which is intended to provide a benefit for any party for whom the employee has no insurable interest.

i. Employee deduction authorization shall not be transferred by an approved vendor to another vendor without special approval from the Commissioner of Administration.

j. An employee may discontinue a voluntary statewide vendor policy/service at any time by following OSUP and department/agency policy. Any deduction amount that is committed for participation in a current FBP year will continue to be deducted, but will be paid to the state of Louisiana.

6. follow procedures established by OSUP policy when refunding payroll deducted and remitted premiums to employees and §112 for requesting changes to existing products;

7. use invoice/billing identification structure that is compatible with payroll agency numbers to facilitate the monthly reconciliation;

8. be responsible for preparing a reconciliation of monthly payroll deduction/remittances to vendor's monthly premium due;

a. Monthly reconciliation shall include total monthly premium due amount, each product amount and code as assigned by OSUP that makes up the total amount of premium due, total remittance amount, and a listing of all exceptions between the premium due and deduction/remittance by employee within billing/payroll agency numbers.

b. Monthly reconciliation exception listing shall identify the employee by Social Security number and payroll agency number and shall be grouped within payroll agency numbers for ISIS HR payroll system agencies and similarly for payroll systems outside of the ISIS HR payroll system.

9. furnish evidence of reconciliation to OSUP as requested by that office. Like verification may be required by other payroll systems outside of the ISIS HR payroll system;

10. provide written notification within ten days of any change in the name, address, entity status, principal officers, designated administrative coordinator, appointed Louisiana sales coordinator and appointed billing coordinator to OSUP;

11. provide written notification of the dismissal of any vendor representative participating in state deduction to OSUP. Any vendor representative who has been debarred by a vendor from state participation shall not be allowed to represent any vendor for deduction for a minimum of two years thereafter.

D. Vendor administrative coordinator shall:

1. be responsible for obtaining solicitation authorization and department policy from the department head or his designee;

2. appoint a vendor representative, if preferred, to be the "Louisiana sales coordinator" to handle the areas of solicitation and educational responsibilities;

3. be responsible for dissemination of information such as the requirements of this rule and department/agency policy and procedures to vendor representatives;

4. act as liaison for the vendor with any administrative contract(or) and the state relative to FBP participation;

5. be the primary contact for resolution of billing, refund, and reconciliation problems; and resolving claims problems for employee;

6. appoint a vendor representative, if preferred, to be the "Billing Coordinator" to handle the areas of billing, refunds and reconciliation problems.

E. Vendors, applicants, and any representatives thereof shall be prohibited from any action intended to influence the opinion or recommendation of any EPBC member.

F. Vendors may be debarred by a department/agency from solicitation within that department/agency for violation of this section or OSUP policy.

G. Vendors may be debarred from solicitation statewide by OSUP for violation of this section or OSUP policy.

H. Unethical conduct or practices of the vendor will result in the termination of payroll deduction authority for that vendor. Unethical or unprofessional conduct of any vendor representative shall result in that individual being debarred from participation in state deduction for any vendor.

I. Deduction authority shall be revoked for any vendor that fails to maintain compliance with provisions of R.S. 42:455 or the requirements of this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 32:

§115. Application Process

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), amended LR 26:1028 (May 2000), repealed LR 32:

§117. Applicant and Vendor Requirements

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), LR 26:1028 (May 2000), repealed LR 32:

§119. Rule Transition

A. Any statewide vendor receiving payment through payroll deduction on the effective date of this rule shall

continue to be approved as a vendor until the next annual renewal process if requirements of §114 are met.

B. Statewide vendors currently participating in deductions which do not meet the minimum participation requirements set forth in §114.C.3 of this rule by December 31, 2005 will be denied deduction privileges.

C. Entities which have submitted requests for consideration of deduction participation shall not be exempted from compliance with any part of this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), LR 26:1029 (May 2000), LR 32:

§121. Deduction Authorization Form

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), amended LR 19:318 (March 1993), LR 22:22 (January 1996), LR 26:1029 (May 2000), repealed LR 32:

§122. Statutory and Intra-Agency Vendor Information

A. Statutory vendors must:

1. provide data such as vendor contact information to OSUP upon request; and

2. upon request, submit to OSUP for approval their deduction authorization agreement (format and content).

a. Employee authorization agreements shall not stipulate any "contract" or "term of participation" requirements. However, employees may designate a 'cap' or annual maximum for a charitable organization deduction authorized by R.S. 42:456.

b. If employee electronic authorization is approved by OSUP, the vendor will be responsible for retaining for audit purposes authorized agreements with employees.

B. Intra-Agency vendors.

1. Department/agency requesting an intra-agency specific deduction must submit a written request to OSUP and include:

a. certification that the collection of funds from employees through payroll deduction for meals, housing, uniforms, etc. is cost effective for the agency; and

b. an explanation of need which is to include the number of employees that will participate.

2. Intra-agency vendors must provide data such as vendor contact information to OSUP upon request.

3. There will be no additional requests for agency associations accepted by OSUP after the effective date of this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 32:

§123. Solicitation of State Employees

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), repromulgated LR 26:1030 (May 2000), repealed LR 32:

§125. Vendor Responsibility

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), LR 26:1030 (May 2000), repealed LR 32:

§127. Department/Agency Responsibility

A. Department Head or his designee shall:

1. approve or reject requests for solicitation authorization presented only by designated coordinators of approved statewide vendors;

2. confirm with the vendor administrative coordinator (and/or Louisiana Department of Insurance when applicable) the credentials of any vendor agent not represented to the department by the vendor administrative coordinator;

3. provide vendor administrative coordinators a copy of department/agency policy relative to receipt, processing, and cancellation of payroll deduction forms, as well as guidelines prior to permitting access to employees;

4. certify the use of any intra-agency deduction, to collect funds from employees for meals, housing, uniforms, etc., is required by and is a benefit to the agency/department; and

5. provide support for participation of selected EPBC members.

B. Department/agency designated personnel shall:

1. accept only authorization forms which conform to the standard deduction format (SED-4) from statewide vendor representatives;

2. verify that the statewide vendor name and product codes on any deduction form submitted are in agreement with the current approved list;

3. accept forms for employee deductions which contain no obvious alterations without employee's written acknowledgment of such change;

4. be responsible for verifying that the deduction amount is in agreement with the monthly amount shown on the authorization if applicable;

5. be responsible for maintaining compliance with employee FBP year contract commitment;

6. process refunds for amounts previously deducted from any vendor which receives ISIS HR payments only as directed by OSUP policy. Payroll systems outside of the ISIS HR payroll system shall establish written policy for remittance and refund of deductions taken;

7. be responsible for reporting any infractions of this rule and/or department policy committed by any vendor or vendor representative to OSUP and/or appropriate governing board or boards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May

1990), LR 19:318 (March 1993), LR 22:22 (January 1996), LR 26:1031 (May 2000), LR 32:

§129. Reporting

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996). LR 26:1031 (May 2000), repealed LR 32:

§131. Fees

A. Data, information, reports, or any other services provided to any vendor or any other party by the ISIS HR payroll system or other state payroll system may be subject to payment of a fee for the cost of providing said data, information, reports, and/or services in accordance with the Uniform Fee Schedule established by rule promulgated by the DOA under R.S. 42:458.

B. Fees assessed shall be satisfied in advance of receipt of the requested data.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), LR 26:1031 (May 2000), LR 32:

§133. Termination of Payroll Deduction

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), repromulgated LR 26:1031 (May 2000), repealed LR 32:

§135. General

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), repromulgated LR 26:1031 (May 2000), repealed LR 32:

§137. Appeal Process

A. Any vendor and/or any vendor representative participating in deduction debarred from participating for any reason by a department/agency or OSUP shall have the right to have that action reviewed by filing a written request for review with the department head of the department/agency. This request for review shall be filed within 10 days from the notice of debarment.

B. A written decision shall be rendered on any request for review within 14 days of receipt.

C. Any vendor and/or vendor representative who is not satisfied with this decision has the right to appeal to the Commissioner of Administration. Any such appeal must be in writing and received by the Commissioner of Administration within 10 days of receipt by the vendor. The Commissioner of Administration shall issue a written decision on the matter within 14 days of receipt of the written appeal.

D. The decision of the Commissioner of Administration shall be the final administrative review.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), LR 26:1031 (May 2000), LR 32:

§139. SED-3 (01/06)

DEPARTMENT REQUEST
FOR
PAYROLL DEDUCTION VENDOR

In accordance with the rule governing payroll deductions, Title 4 (Chapter 1, §106.D.2.d),

I,_____,_____, on behalf of the
NAME (Print) TITLE

employees of _____, hereby request
DEPARTMENT

favorable consideration of a payroll deduction application submitted by:

A.

_____
APPLICANT/VENDOR NAME

_____
ADDRESS

_____
CITY/STATE/ZIP

_____
AGENT/REPRESENTATIVE

_____
PHONE (Area/Number/Extension)

To offer:

B.(PRODUCT/SERVICE)

Section 125 Eligible
Yes [__] No [__]

_____

_____

_____

_____

I further certify that the above named company applicant has provided evidence of having met and/or exceeded all requirement of R.S. 42:455; has knowledge of the requirements of the rule governing payroll deductions; and that this department/agency attests that this product/service would be a benefit for employees of this department/agency.

Department _____

Signature _____

Title _____

Date _____

Barbara Goodson
Assistant Commissioner of
Management and Finance

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), repromulgated LR 26:1033 (May 2000), amended LR 32:

Family Impact Statement

1. What effect will this Rule have on the stability of the family? The proposed Rule will not affect the stability of the family.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? The proposed Rule will not affect the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? This Rule will not affect the functioning of the family.

4. What effect will this have on family earnings and family budget? This Rule will not affect the family earnings or family budget.

5. What effect will this have on the behavior and personal responsibility of children? This Rule will not affect the behavior or personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed Rule? No, the action proposed is strictly a state enforcement function.

Interested persons may submit written comments to the Director of the Office of State Uniform Payroll, P.O. Box 94095, Baton Rouge, LA 70804-9095. All comments must be received no later than 5 p.m., November 20, 2005.

Jena W. Cary
Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Payroll Deduction

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

There will be no costs or saving to state agencies resulting from this rule change.

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

There will be no effect on revenue collections of state or local governmental units as a result of this proposed action.

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

State of Louisiana employees, Louisiana human resource/payroll staff and insurance vendors having payroll deductions will be directly affected by this rule. There were two major changes to the rule which affect these groups: 1) employee participation levels were decreased from 1000 per product to 100 per product, and 2) vendor requests for enhancements to products are now allowed twice a year rather than once a year. Since employees, agencies, and vendors are already currently operating under these guidelines, there will be no effect on the cots or economic benefits to these groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated impact on competition and employment as a result of this action.

Barbara Goodson
Assistant Commissioner
Management and Finance

Robert E. Hosse
Staff Director
Legislative Fiscal Office

0510#053

NOTICE OF INTENT

Department of Health and Hospitals
Board of Massage Therapy

Comprehensive Rule Revisions
(LAC 46:XLV.Chapters 1-63)

In accordance with the provision of R.S. 37:3551 et seq. and R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Massage Therapy hereby announces its intention to amend the current rules governing this profession. The proposed Rule deletes statutory repetition and adds instructor qualifications.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLV. Massage Therapists

Chapter 1. General Provisions

§101. General Provisions

A. Under the authority of R.S. 37:3551 et seq., the State Board of Massage Therapy is adopting the following rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3551 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Massage Therapists, LR 20: 1002 (September 1994), repromulgated LR 20:1111 (October 1994), amended LR 32:

Chapter 3. Definitions

§301. Definitions

A. The definitions set forth in R.S. 37:3551 et seq., and R.S. 49:951 et seq., are incorporated herein by reference, with the following additions and supplements, which shall, when used in these rules and regulations, have the following meaning unless the text thereof or the definitions contained in the above-cited statutes clearly indicate otherwise:

*Board*Cthe Louisiana Board of Massage Therapy.

*Department*Cthe Department of Health and Hospitals.

*Drape*Ctowels, gowns, or sheets used to cover clients while massage therapy is being performed.

*Massage Establishment*Cany place of business in which massage therapy is practiced by a massage therapist.

*Massage Therapist*Can individual who practices or administers massage therapy to a patron of either gender for compensation. The term shall include a therapeutic massage practitioner, massage technician, masseur, masseuse, body worker, or any derivation of those titles.

*Massage Therapy*Cmeans the manipulation of soft tissue for the purpose of maintaining good health and establishing and maintaining good physical condition. The term shall include effleurage (stroking, petrissage (kneading), tapotement (percussion), compression, vibration, friction, active/passive range of motion, shiatsu and accupressure, either by hand, forearm, elbow, foot, or with mechanical appliances, for the purpose of body massage. Massage therapy may include the use of lubricants such as salts, powders, liquids, creams (with the exception of prescriptive or medicinal creams), heat lamps, whirlpool, hot and cold packs, salt glows, or steam cabinet baths. It shall not include electrotherapy, laser therapy, microwave therapy,

colonic therapy, injection therapy, or manipulation of the joints. Equivalent terms for massage therapy are massage, therapeutic massage, massage technology, shiatsu, body work, or any derivation of those terms. As used in these rules, the terms "therapy" and "therapeutic" shall not include diagnosis, treatment of illness or disease, or any service or procedure for which a license to practice medicine, chiropractic, physical therapy, or podiatry is required by law.

*Massage Therapy Instructor*Can individual who is licensed as a massage therapist, who possesses credentials satisfactory to the board and who meets the criteria and is certified and approved by the board pursuant to this rule.

*Person*Can individual, corporation, association, or other legal entity.

*Probable Cause*Can apparent state of facts found to exist which would cause a reasonably prudent person to believe that the applicant has committed an act constituting grounds for disciplinary action.

*Professional Massage Therapy Association*Ca statewide organization or statewide chapter of an organization:

a. which, either directly or through the parent organization, qualifies as a tax exempt nonprofit organization under 26 U.S.C. §501(c)(6);

b. which, within Louisiana, offers a voting membership to all licensed massage therapists who practice or reside in Louisiana and who maintain their voting membership in good standing;

c. which, within Louisiana, is administered by a governing body composed of officers democratically elected by the organization's voting membership within Louisiana; and

d. which has registered with the board pursuant to Section 701 of these rules and been recognized by the board as satisfying the requirements set forth herein.

*Reflexology*Cthe manipulation of the superficial tissues of the feet and hands, based on the theory that manipulation of body reflex areas or zones can affect other body functions which the board recognizes as being encompassed within the definition of Massage Therapy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3551 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Massage Therapy, LR 20: 1002 (September 1994), repromulgated LR 20:1111 (October 1994), amended LR 32:

Chapter 9. Code of Ethics

§901. Code of Ethics

A. A massage therapist shall:

1. represent their qualifications honestly, including education and professional affiliations, and provide only those services which they are qualified to perform;

2. accurately inform clients, other health care practitioners, and the public pf the scope and limitations of their discipline;

3. acknowledge the limitations of and contraindications for massage and bodywork and refer clients to appropriate health professionals;

4. provide therapy only where there is reasonable expectation that it will be advantageous to the client;

5. consistently maintain and improve professional knowledge and competence, striving for professional excellence through regular assessment of personal and professional strengths and weaknesses and through continued education training;

6. conduct their business and professional activities with honesty and integrity, and respect the inherent worth of all persons;

7. refuse to unjustly discriminate against clients or other ethical health professionals;

8. safeguard the confidentiality of all client information, unless disclosure is required by law, court order, or absolutely necessary for the protection of the public;

9. respect the client's right to therapy with informed and voluntary consent;

10. respect the client's right to refuse, modify, or terminate therapy regardless of prior consent given;

11. exercise the right to refuse to treat any person or part of the body for just and reasonable cause;

12. refrain, under all circumstances, from initiating or engaging in any romantic or sexual conduct, sexual activities, or sexualizing behavior involving a client, even if the client attempts to sexualize the relationship;

13. respect the client's boundaries with regard to privacy, disclosure, exposure, emotional expression, beliefs, and the client's reasonable expectations of professional behavior. Practitioners will respect the clients autonomy.

B. Every person licensed as a massage therapist shall subscribe to and practice by the Code of Ethics established by the board. The board shall make copies of the Code of Ethics available to licensees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37: 3551 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Massage Therapy, LR 20: 1002 (September 1994), repromulgated LR 20:1111 (October 1994), amended LR 32:

Chapter 11. Educational Qualifications for Licensure

1101. Educational Qualifications for Licensure

A. A person desiring to be licensed as a massage therapist shall apply to the board to take the examination provided for in R.S. 37:3557. To be eligible to take the examination, an applicant shall pay the examination fee and shall submit evidence satisfactory to the board that he has met one of the following requirements:

B.1. Satisfactory completion of massage therapy studies in a 500 hour minimum supervised course of instruction. The course of instruction must be provided by a proprietary massage therapy school licensed by the State Department of Education or the Board of Regents unless otherwise approved by the board. The minimum 500 hours shall consist of: 325 hours dedicated to the study of basic massage therapy techniques and clinical practicum-related modalities; 125 hours dedicated to the study of anatomy and physiology; and, an additional 50 hours of discretionary related course work, including but not limited to hydrotherapy, business practices and professional ethics, Louisiana Law, Rules and Regulations, health and hygiene, cardiopulmonary resuscitation (CPR) and first aid and Aids/HIV and infectious disease awareness; and

2. In order to satisfactorily complete course requirements to be eligible to sit for the license examination, massage school students must attend at least 90 percent of class hours in each subject matter offered in the supervised course of instruction, as reflected by attendance records

taken at the beginning of each class meeting. The Board of Massage Therapy's inspector is authorized to review attendance and course records and to conduct monitoring as spot site visits, either directly or through a duly authorized designee, to determine whether scheduled classes are being held and whether all students recorded as present are present for the entire class period. If documentation satisfactory to the Board of Massage Therapy of student attendance is not maintained by a massage therapy school or if the documentation includes classes that were not held or shows students as present who were not present for the full class period, the Board of Massage Therapy may deny eligibility to sit for the state board examination to graduates from the student who attended the school during the period that attendance was not adequately or correctly documented.

3. In order to satisfy the requirements of this section, each class hour of each required subject must be taught by an instructor approved by the Board of Massage Therapy for that subject. The Board of Massage Therapy's inspector is authorized to review records and to conduct monitoring and spot site visits, either directly or through a duly authorized designee, to determine whether this requirement is being satisfied. The Board of Massage Therapy may deny eligibility to sit for the license examination to graduates from a non-compliant school who attended the school at the time of such noncompliance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37: 3551 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Massage Therapy, LR 20: 1002 (September 1994), repromulgated LR 20:1111 (October 1994), amended LR 32:

Chapter 12. Instructor Qualification

§1201. Instructor Qualification

A. A person desiring to be approved as a massage therapy instructor of a specific massage therapy technique or clinical practicum-related modality shall submit evidence satisfactory to the Board of Massage Therapy that the applicant has met one of the following:

1. that the person is a currently licensed therapist in good standing with the Board of Massage Therapy; and

2. that the person has lawfully practiced massage therapy for at least four years, or has grandfathered in as stated in Subsection B below; and

3. that the person has completed at least two times the hours of training in which he/she is responsible in the specific module, except that this Subparagraph shall not apply to instruction of basic Swedish and/or relaxation massage therapy.

B. A person may be grandfathered in as an instructor, if the person has:

1. applied for and paid for a license as an instructor on board approved applications within 45 days of promulgation of rule;

2. is currently approved by the Board of Regents; and

3. is a licensed massage therapist currently in good standing with the Board of Massage Therapy.

C. A person desiring to be approved as an instructor of anatomy lecture, physiology lecture, or kinesiology lecture shall produce evidence satisfactory to the Board of Massage Therapy that the individual either:

1. is a licensed massage therapist in good standing with the Board of Massage Therapy and has lawfully practiced massage therapy for at least four years; or

2. has a minimum of an associates or bachelor's degree from a college or university which is accredited by a regional accrediting body recognized by the US Department of Education, or a substantially equivalent accrediting body of a foreign sovereign state, with a major in one of the following: anatomy, physiology, kinesiology, sports medicine, exercise physiology, nursing, education with a concentration in biology or a substantially equivalent major; or

3. is a licensed physician (MD), osteopath, chiropractor, or registered nurse.

D. A person desiring to be certified as an instructor of business practices and marketing shall produce evidence satisfactory to the Board of Massage Therapy that the individual either:

1. has a least four years of experience as a full-time practicing massage therapist and owner/operator of a valid massage therapy establishment; or

2. has a minimum of a bachelor's degree from a college or university which is accredited by a regional accrediting body recognized by the U.S. Department of Education, or a substantially equivalent accrediting body of a foreign sovereign state, with a major in business, marketing, or a substantially equivalent major.

E. A person desiring to be certified as an instructor of Louisiana Law, and Rules and Regulations, Ethics, pertaining to massage therapy shall produce evidence satisfactory to the Board of Massage Therapy that the individual either:

1. is a licensed massage therapist in good standing with the Board of Massage Therapy and has lawfully practiced massage therapy for a least four years; or

2. holds a valid license to practice law in Louisiana as evidence by a certificate from the Supreme Court of Louisiana that the individual is a member in good standing of a bar of that court.

F. A person desiring to be approved as an instructor of first aid, safety, hygiene or sanitary practices shall produce evidence satisfactory to the Board of Massage Therapy that the individual either:

1. is a licensed massage therapist in good standing with the Board of Massage Therapy and has lawfully practiced massage therapy for at least four years; or

2. is licensed as a registered nurse; or

3. has a minimum of a bachelor's degree from a college or university which is accredited by a regional accrediting body recognized by the US Department of Education, or a substantially equivalent accrediting body of a foreign sovereign state, with a major in nursing, or a substantially equivalent major.

G. A person desiring to be certified as an instructor of hydrotherapy shall produce evidence satisfactory to the Board of Massage Therapy that the individual is a licensed massage therapist in good standing with the Board of Massage Therapy and has lawfully practiced massage therapy for at least four years.

H. A person desiring to be approved as an instructor of CPR shall produce evidence satisfactory to the Board of

Massage Therapy that the individual has been certified by the American Red Cross or The American Heart Association as an instructor in these topics.

I. A person desiring to be approved as an instructor of AIDS/HIV and infectious disease awareness shall produce evidence satisfactory to the board that the individual has been certified by the Federal Centers for Disease Control and Prevention as an AIDS/HIV counselor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37: 3551 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Massage Therapy, LR 32:

Chapter 13. Examination

§1301. Examination Requirements

A. Persons seeking a license must first pass a national examination that is:

1. approved and/or accredited by the National Commission for Certifying Agencies, an accrediting arm of the National Organization for Competency Assurance and;

2. approved by the board and has passed the Louisiana State Board Oral examination.

B. In the event that the Louisiana Examination written is used, it may include the following subjects: theory of massage therapy, anatomy, physiology, hydrotherapy, statutes and rules concerning massage, and business ethics.

C. An oral examination may include: clinical situations; statutes and rules; any of the techniques listed in the practical examination.

D. The score necessary to achieve a passing grade for licensure shall be 70 percent or better of 100 percent on both the written and oral parts of the examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3551 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Massage Therapy, LR 20: 1002 (September 1994), repromulgated LR 20:1111 (October 1994), amended LR 32:

Chapter 15. License Application Requirements

§1501. License Application Requirements

A. Applications for Examination. An applicant for examination or re-examination for licensure must submit a completed application that is received by the board postmarked no later than 30 days prior to the examination date. The application must include proof satisfactory to the board that the applicant has satisfied the requirements for eligibility to sit for the examination. The application must include an official transcript from the massage therapy school showing completion of the course of instruction. All incomplete applications will be returned with all fees submitted and the applicant will be deemed unable to sit for the upcoming state licensing examination, unless a complete application is returned within the 30-day limit. All requests for accommodation pursuant to the Americans with Disabilities Act must be made in writing and submitted with the application.

B. Test Procedures and Results. Applicants arriving after the examination has begun will not be admitted. Test results will be mailed within 30 days of the test date. Test results will not be given over the telephone. Where payment for a license is not received by the board or postmarked within 45 days from the date that the results are mailed, the license shall be regarded as null and void and the applicant will be required to reapply and re-test for licensure.

C. Re-Examinations. An applicant who fails a part of the state examination for licensure shall pay fee(s) required to retake only the part of the examination failed.

D. Review Procedures. In the event that the state written examination is given, an applicant is entitled to review his examination questions, answers, papers, grades and the grading key used in the state examination for licensure under such terms and conditions as may be prescribed by the board. Fees for such review of the licensure examination shall be:

1. review of written examinationC$75;

2. review of oral examinationC$75.

E. Board Examination Review Request. If, following review of his examination, an applicant believes that an error was made in the grading of his examination or in the evaluation of his answers, he may request that the board review his examination. Requests for review must be in writing, stating with specificity the reasons why review is requested. The request must be received by the board within 30 days after the applicant has received notice that he failed all or part of examination.

F. Board Examination Review. Upon the receipt of a request for review, the board shall, within 30 days, review the applicant's examination. If the board finds that an error was made, the board will correct the grade received by the applicant to reflect that finding. The applicant shall be notified of the board's action. If an error is found that effects pass/fail status, the board will waive the fees for review.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3551 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Massage Therapy, LR 20: 1002 (September 1994), repromulgated LR 20:1111 (October 1994), amended LR 32:

Chapter 17. License and Establishment Registration

§1701. License and Establishment Certificate Renewal

A. The board will send license renewal forms to the last address given by the licensee to the board in writing. The board will send establishment registration certificate renewal forms to the last address given by the establishment to the board in writing.

B. Renewal applications for licenses and for massage establishments must be received by the board postmarked no later than December 31 of the calendar year. If an application for inactive status or renewal is neither received nor postmarked by this date, the license or registration certificate shall be considered expired.

C. Applications for license renewal must be accompanied by copies of the certificates or letters of attendance showing that the licensee has satisfied board approved continuing education requirements.

D. Incomplete renewal applications will be returned to the licensee and may be subject to late fees.

E. License renewals will be issued only upon confirmation that the licensee is practicing at a massage establishment that is registered pursuant to these rules or qualifies for a statutory exception to the registration requirement. A licensee who provides any massage therapy services for compensation at any point during the calendar year shall be regarded as a practicing licensee.

F. Inactive Status. Those who wish to put their active registration on the inactive list, remaining there for a period not to exceed five years before returning to active practice,

may do so without reexamination or late fees upon submission of an affidavit provided by the board requesting inactive status, which shall attest that they shall not perform massage therapy for compensation within the state of Louisiana while on inactive status. They shall surrender their license and certificate to the board and no license certificate shall be issue while on inactive status. To reinstate to active status the licensee must submit an affidavit provided by the board stating they are returning to active status, pay the current year license renewal fee, and submit proof to the board the licensee has satisfied the CEU requirements that would have been a[applicable had the licensee been on active status. After five years of inactive status, the licensee shall be considered expired.

G. Any license that is not renewed or placed on inactive status before the licenses has lapsed will be deemed expired and will need administrative approval before the licenses can become active.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3555(A)(1), (A)(4) and (A)(6), 3559, 3561.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Massage Therapy, LR 20: 1002 (September 1994), repromulgated LR 20:1111 (October 1994), amended LR 32:

Chapter 19. Requirements and Supervision

§1901. Provisional License

A. Board approval for examination of an applicant who possesses the qualifications specified in R.S. 37:3556(B)(1) shall constitute approval for a provisional license providing the applicant submits the provisional license fee of $25, submits a form signed by a licensed massage therapist(s) who agrees to supervise the provisional licensee according to R.S. 37:3551 et seq., is not under investigation for any conduct that could result in the denial of licensure, and meets all other qualifications of R.S. 37:3551 et seq. For purposes of this rule, the term "supervise" requires that the supervising massage therapist(s) must be physically in the massage establishment at all times when the provisional licensee is providing massage therapy services.

B. Advertising of massage services rendered by a provisional licensee is prohibited unless such advertisement clearly indicates that the licensee holds a provisional license and is practicing under the supervision of a licensed massage therapist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3551 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Massage Therapy, LR 20: 1002 (September 1994), repromulgated LR 20:1111 (October 1994), amended LR 32:

Chapter 21. Conditional Approval To Take Licensure Examination

§2101. Terms and Conditions

A. Based upon probable cause, the board may require that the applicant agree to such terms and conditions as the board deems necessary to protect the public health and safety.

B. The terms and conditions the board may impose under this rule are:

1. before receiving a license, the applicant must appear before the board to respond to questions regarding the application;

2. when convicted of a crime, the applicant must submit copies of all available court documents (including a certified copy of the judgment, indictment or information and related documents, including police and probation reports). For purposes of these rules, a plea of "nolo contendere" to a crime constitutes a conviction of that crime;

3. the applicant must authorize the board to receive and review all records of the applicant's medical, psychiatric, or psychological treatments;

4. the applicant must submit to mental and physical examination by a board approved physician or psychologist;

5. in the event the board grants the applicant a license, the applicant must agree to limit the scope of his practice in such manner as the board may determine necessary to protect the public health and safety;

6. the applicant must agree to receive alcohol, drug abuse, or psychological counseling;

7. the license to practice massage therapy may be issued subject to probation of up to one (1) year in duration;

8. the applicant's practice of massage therapy must be under the supervision of a board approved licensed massage therapist who may be required to make periodic reports to the board regarding the applicant's competence to practice massage therapy; and

9. such other terms and conditions reasonably designed to protect the public health and safety.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3551 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Massage Therapy, LR 20: 1002 (September 1994), repromulgated LR 20:1111 (October 1994), amended LR 32:

Chapter 25. Massage Establishment Safety and Sanitary Requirements

§2501. Safety and Sanitary Requirements

A. Sanitary Requirements. Each massage establishment shall be maintained and operated in a safe and sanitary manner. To that end, each massage establishment shall:

1. comply with all state and local building fire and safety code requirements;

2. provide for safe and unobstructed human passage in the public areas of the premises, removal of garbage and refuse and safe storage or removal of flammable materials;

3. maintain on the premises a fire extinguisher in good working condition;

4. exterminate all vermin, insects, termites, and rodents on the premises;

5. maintain all equipment used to perform massage services on the premises in a safe and sanitary condition;

6. launder, before reuse, all materials furnished for the personal use of the customer, such as towels and linens;

7. provide adequate toilet and lavatory facilities. To be adequate, such facilities shall have at least one toilet and one sink with running water. Such facilities shall be equipped with toilet tissue, soap dispenser with soap or other hand cleaning materials, sanitary towels or other hand-drying device such as a wall-mounted electric hand dryer, and waste receptacle. Such facilities and all of the foregoing fixtures and components shall be kept clean, in good repair, well-lighted, and adequately ventilated to remove objectionable odors;

8. adequately maintain shower facilities on the premises if equipped with a whirlpool bath, sauna, steam cabinet and/or steam room;

9. maintain current property damage and bodily injury liability insurance coverage for the establishment with minimum limits of $1,000,000 per occurrence and require that all licensed massage therapists and provisionally licensed massage therapists practicing at the establishment be covered by professional malpractice coverage with minimum limits of $1,000,000 per occurrence, with originals or copies of policies or certificates of insurance for all such coverage's to be available on the premises of the establishment;

10. maintain toilet facilities in a common area of the establishment. Establishments located in buildings housing multiple businesses under one roof such as arcades, shopping malls, terminals, hotels, etc., may substitute centralized toilet facilities. Such central facilities shall be within 300 feet of the massage establishment;

11. maintain lavatories for hand cleansing and/or chemical germicides designed to disinfect and cleanse hands without the use of a lavatory in the treatment room itself or within 20 feet of the treatment area.

B. Draping. Each massage establishment shall maintain a sufficient supply of clean drapes for the purpose of draping each client during massage. Before beginning a massage, each massage therapist shall have explained expected draping techniques and provided the client a clean drape for that purpose. In the case of a male client, the gluteal cleft and genitalia must be covered; and, in the case of a female client, breasts, the gluteal cleft, and genitalia must be covered. The board may establish a protocol for any variation from the above described draping procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3551 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Massage Therapy, LR 20: 1002 (September 1994), repromulgated LR 20:1111 (October 1994), amended LR 32:

Chapter 27. Inspection upon Application for Registration of Establishments

§2701. Inspections

A. Upon receipt of an application for a massage establishment registration certificate, the board may cause an inspection to be made of the site. The board further may make periodic inspections of all massage establishments, including unregistered and/or unlicensed massage establishments.

B. Such inspections may include, but need not be limited to, confirmation that the site is being utilized for massage therapy, a determination of whether the establishment is in compliance with the laws and rules governing the establishment's operation, facilities, personnel, safety, and sanitary requirements, review of existing insurance coverage, and review of client history records and billings records.

C. Failure to cooperate with such inspections may lead to disciplinary action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3551 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Massage Therapy, LR 20: 1002 (September 1994), repromulgated LR 20:1111 (October 1994), amended LR 32:

Chapter 29. Notification to Board of Change of Status

§2901. Name, Ownership and/or Location Changes

A. Massage EstablishmentsCAll Changes of Name, Ownership and/or Professional Licensees

1. All changes in name(s) and/or location(s) must be reported to the board in writing within 30 days of occurrence on a form provided by the board.

2. Change in status notification will include situations where a therapist ceases to practice at a given physical location or address.

B. Location must be reported to the board within 30 days in writing, and shall require a new establishment registration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3551 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Massage Therapy, LR 20: 1002 (September 1994), repromulgated LR 20:1111 (October 1994), amended LR 32:

Chapter 31. Prohibition on Sexual Activity in Massage Establishments and between Therapist and Client

§3101. Prohibition of Sexual Activity

A. All sexual activity by any person or persons in any massage establishment is absolutely prohibited.

B. No massage establishment owner or operator shall engage in or permit any person or persons to engage in sexual activity in that owner or operator's massage establishment or to use that establishment to make arrangements to engage in sexual activity in any other place.

C. No licensed massage therapist shall engage in sexual activity with a current client of the therapist.

D. No licensed massage therapist shall engage in sexual activity with a former client of the therapist within three months after cessation of professional services.

E. As used in this rule and §5301 of these rules, "sexual activity" means and includes coital sexual intercourse, anal sexual intercourse, fellatio, cunnilingus, masturbation and acts of sadomasochistic abuse, flagellation, or torture in the context of sexual conduct. "Sexual activity" further means and includes the purposeful touching of the genitals of another person and the purposeful erotic stimulation of the anus, the male or female nipple, or the female breast, whether through draping or clothing, whether resulting in penetration or orgasm or not, and whether by instrumental manipulation, touching with the hands, or other bodily contact. "Sexual activity" further means and includes any sexual offenses proscribed by the criminal laws of Louisiana including, but not limited to, R.S. 14:83.3 and 83.4.

G. For purposes of this rule, the term "client" means and includes any person receiving massage therapy services provided for compensation (regardless of the source, recipient or nature of the compensation), and any person receiving massage therapy services that are not provided for compensation either because of indigence or because the massage therapy services were provided within the context of a community outreach or other public service program. A massage therapist's own spouse is excluded from the term "client" under this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3556(A)(4) and (6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Massage Therapy, LR 20: 1002 (September 1994), repromulgated LR 20:1111 (October 1994), amended LR 32:

Chapter 33. Applications, Issuance of Licenses and Certificates of Registration, Referrals

§3301. Procedures

A. Applications for licensure, registration, or renewal shall be on forms provided by the board and shall be accompanied by the appropriate fees and postmarked on or before December 31, each year.

B. The board shall issue a license to each person qualified as a massage therapist and a registration certificate to each qualified massage establishment. To be qualified for licensure as a massage therapist, an applicant shall have successfully passed the examination provided for in this rule. Such license or certificate grants all professional rights, honors, and privileges relating to the practice of massage therapy.

C. Each licensed massage therapist shall publicly display his license. In addition, each massage establishment shall post, in plain sight, its certificate or registration and the license of each massage therapist who practices in the massage establishment.

D. A license or registration certificate is the property of the board and shall be surrendered upon demand of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3556(A)(4) and (6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Massage Therapy, LR 20: 1002 (September 1994), repromulgated LR 20:1111 (October 1994), amended LR 32:

Chapter 35. Provisional License, Limited Renewal

§3501. Limitations

A. An applicant who possesses the qualifications specified in these rules to take the board examination may be granted a provisional license to engage in the practice of massage therapy until the date of the next examination are known.

B. An individual who has been issued a provisional license shall only practice massage therapy under the supervision of a licensed massage therapist.

C. Such provisional license may, at the discretion of the board, be renewed once.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3556(A)(4) and (6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Massage Therapy, LR 20: 1002 (September 1994), repromulgated LR 20:1111 (October 1994), amended LR 32:

Chapter 37. Continuing Education

§3701. Continuing Education Requirements

A. Each licensed massage therapist shall complete a minimum of 12 hours each calendar year of Continuing Education Units (CEUs) approved pursuant to §3901 of these rules.

B. The continuing education requirement set forth in Subsection A above shall not apply to a massage therapist during the calendar year in which the therapist is first licensed in Louisiana. The continuing education requirement shall apply to the licensee for every calendar year of licensure thereafter.

C. One hour of continuing education is defined as no less than 50 uninterrupted minutes of instruction, with no credit to be given for introduction of the speaker, meal breaks or business meetings. Sessions of less than 50 minutes but more than 30 minutes shall be counted as 1/2 hour. Instructional sessions of less than 30 minutes shall be disregarded for purposes of counting CEU credits.

D. The board will not grant CEU credit to a therapist for a program that is taken more than twice.

E. Presenters/moderators/instructors of courses shall not receive credit for courses they present.

F. Each year, an application for renewal will be mailed to each licensee at the last address provided to the board. Applicants shall submit a copy of the certificate received to the board. The CEU certificate shall have the providers name and number, the title of the program and the presenters signature, the date, the number of CEU hours, and the licensee's name and license number.

G. Failure of the licensee to satisfy the requirements of this rule shall be a violation and shall subject the licensee to disciplinary actions pursuant to these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3555(B)(2) and 3561.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Massage Therapy, LR 20: 1002 (September 1994), repromulgated LR 20:1111 (October 1994), amended LR 32:

Chapter 39. Requirements for Board Approval of Continuing Education Providers and Programs

§3901. Continuing Education Provider Requirements

A. Board Approval Requirement. For the purpose of renewing or reinstating a license, credit for Continuing Education Units (CEUs) will be awarded only for providers and programs approved by the board. Each provider must make application for board approval on forms provided by board, submit a fee of $100 for an initial request for provider approval and $100 for a bi-annual request for provider renewal, and a fee of $50 program application and demonstrate that the provider will meet the following requirements.

1. The provider must have approval, in writing, from the board before disseminating any notices that their program is approved for license renewal credit. In the event a provider does advertise approval by board and approval has not been granted in writing, that provider may be subject to a $1,000 fine and for a two year period no application for approval of continuing education programs by provider will be considered for approval. At the end of that two year period the $1,000 fine must have been paid before any applications are considered for any future programs by that provider.

B. The continuing education provider must provide in writing, to the board, the name and address of the person responsible for insuring that each program meets the following requirements.

C. Authority to Review and Revoke Approval. The board retains the right and authority to audit and/or monitor CEU providers and/or programs. The board may at any time evaluate any provider and/or program and deny, revoke, and/or decline to renew approval of that provider and/or

program for good cause. This right to deny, revoke and/or decline to renew approval includes, but is not limited to, the right to deny, revoke and/or decline to renew approval if the provider has disseminated any false or misleading information in connection with the continuing education program or if the provider has failed to conform to and abide by any governing standards, rules and/or written agreements concerning the provider and/or program.

D. Approved Providers. Subject to Subsection B above, providers may obtain approval from the board upon making application on a form approved by the board, submitting a fee of $100 for an initial request for provider approval, and demonstrating that the provider will meet the following requirements:

1. The provider must retain a "sign-in sheet" with the signature of participants and copies of any promotional materials for at least four years following each program. The provider must furnish each participant with a certificate or letter of attendance verifying that the program has been completed. The certificate or letter shall not be issued until completion of the program and shall contain the provider's name and number, the title of the program and instructor, the date, the number of CEU hours, and the licensee's name and license number. Within 30 days after the program, the provider must send a copy of the sign-in sheets to the board, together with a listing of the names and addresses of the persons who received a certificate or letter of attendance for the program. A CEU Certificate can not be issued for less than the number of hours approved.

2. Each program presented for Louisiana CEU credits shall be relevant to and focus on massage theory, practice, methods, or laws, regulations and ethical principles pertaining to the practice of massage therapy and shall have stated learning objectives. No Louisiana CEU credits will be approved for programs that include instruction in diagnosis, the treatment of illness or disease, or any service or procedure that otherwise exceeds the scope of massage therapy as defined by R.S. 37:3552(5).

3. Each program presented for Louisiana CEU credits shall be taught by a person who:

a. holds a minimum of a bachelor's degree from a college or university which is accredited by a regional accrediting body recognized by the U.S. Department of Education, or a substantially equivalent accrediting body of a foreign sovereign state, with a major in a subject directly related to the content of the program to be offered; or

b.i. has completed at least five years of professional experience in the practice of massage therapy; and

ii.(a). has, within the last three years of professional experience, taught a program in the subject matter at least four times; or,

(b) has completed at least 100 hours of non-entry level education in the subject matter to be offered and has a minimum of two years of professional experience in the subject;

(c). was approved by the board as a presenter prior to January 30, 2002.

4. The provider must provide to the board, in writing, the name and address of the person responsible for ensuring that each program meets the requirements of Paragraphs 1-3 above and said person shall so certify in the application for provider approval.

E. Providers must have approval, in writing, from the board before disseminating any notices that their program is approved for license renewal credit. In the event a provider does advertise approval by the board and approval has not been granted in writing, that the provider may be subject to a fine up to $1,000 and/or up to a two year period, no application for approval of continuing education programs by that provider will be considered for approval. The fine must be have been paid before any applications are considered for any future programs by that provider.

F. Program Approval. Providers approved pursuant to Subsection A above may obtain approval for all programs to be offered for the full duration of their two-year period as an approved provider. Providers may obtain program approval by making timely application on a form approved by the board, submitting a program fee of $50 that will cover all programs within the two year period that is exactly the same material presented and the same presenter. The provider must demonstrate that each program and presenter meets the requirements of Subsection A above. The provider may amend the program application at any time during the two-year period to add additional programs and/or presenters after an application has been approved by the state board and a $50 fee has been paid. Approval for a particular program will be denied if sought later than 45 days before the start of the program.

G. Out-of-State Program Approval. A Louisiana licensee or licensees may request approval of an individual out-of-state program that has not been approved pursuant to the foregoing provisions by submitting 45 days before the date of the program, an application form approved by the board, all materials showing curriculum objectives and Subsection D above and a program review fee of $50. If the individual licensee is seeking approval for multiple programs offered at a national convention of a professional massage therapy organization, only a single $50 fee need be paid by the licensee to seek approval for the multiple programs. Approval shall be for the program sessions attended by the Louisiana licensee(s).

H. Other Program Approval. Louisiana licensee or licensees may request approval of a non-standard program that has been approved pursuant to the foregoing provisions. The licensee must submit an application form issued by the board, 45 days before the date of the program, accompanied by a program review fee of $50. This form may be used to apply for approval for such things as but not limited to, college courses or published works by the therapist, to be used in lieu of CEUs for the given year. Protocols for such proposed programs will be established by the board.

I. Provider Renewal. A certificate from the board approving a provider pursuant to Subsection F above shall be valid for a period of two years from the date that the certificate was issued. During the certificate renewal period, an application for renewal will be mailed to the provider at the last address supplied to the board. In order to obtain renewal of the certificate, the provider must return the completed renewal form to the board on or before the expiration date of the current certificate, together with a provider renewal fee of $100. Failure to renew your application by the second anniversary (expiration date) will result in loss of provider status and all programs will become null and void. Failure to abide by the following standards

will result in the revocation of the providership for a period of five years.

J. Statement as to Approval

1. The provider of a program approved for Louisiana CEU units may announce or indicate in advertising, promotional and other materials as follows :

"Approved by the Louisiana Board of Massage Therapy for a maximum of ____ hours CEUs".

No other statement regarding Louisiana CEU approval may be made in advertising, promotional and/or other materials, included but not limited to, a statement that an application has been to the board for approval or that the provider intends to apply for approval.

2. Providers may offer programs that are not approved pursuant to this Section. However, if a provider offers a program for which approval is not sought, or for which approval has been denied, the provider must announce in all advertising, promotional and other materials concerning the program as follows:

"Not offered for Louisiana State Board of Massage Therapy CEUs".

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3555(B)(2) and 3561.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Massage Therapy, LR 20: 1002 (September 1994), repromulgated LR 20:1111 (October 1994), amended LR 32:

Chapter 41. Health Data Record Keeping

§4101. Health Data

A. Data concerning an individual's health status must be systematically and continuously collected, recorded, and communicated in order to determine therapeutic needs, according to the following criteria.

1. The format for the collection of data must provide for systematic collection, frequent updating, accessibility, and appropriate confidentiality.

2. Data may be collected from the individual, family members, pertinent others and other health care personnel.

3. Client records are to be obtained and reviewed by the licensed therapist to determine if therapeutic massage intervention is.

a. Client records are to be maintained at the registered establishment location in a confidential manner.

b. Client records must be maintained for a minimum of five calendar years. After this period, records may be disposed of in an appropriate and confidential manner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3551 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Massage Therapy, LR 32:

Chapter 51. Discipline and Injunctions

§5101. Discipline and Injunctions

A. In addition to the above actions and penalties, the board may cause to be issued an injunction without bond enjoining any person from violating or continuing to violate the provisions of R.S. 37:3501 et seq. in any court of competent jurisdiction.

B. In the suit for an injunction, the Board may demand of the defendant a penalty of $50 per day for each violation, reasonable attorney fees, and the court costs.

C. The judgment for penalty, attorney fees, and court costs may be rendered in the same judgment in which the injunction is made absolute.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3551 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Massage Therapy, LR 20: 1002 (September 1994), repromulgated LR 20:1111 (October 1994), amended LR 32:

Chapter 53. Misconduct and Negligence in the Practice of Massage Therapy

§5301. Unprofessional Conduct

A. The following acts shall constitute misconduct in the practice of massage therapy or incorrect practice of massage for which disciplinary penalties may be imposed:

1. conviction or a finding of guilty in any jurisdiction, regardless of adjudication, of a crime which directly relating to the practice of massage or to the ability to practice massage. Any-plea of "nolo contendere" shall be considered a conviction for purposes of this rule; including pleas of guilty, nolo contendere and pleas under La. C.Cr.P. article 893 and 894;

2. false, deceptive, or misleading advertising;

3. aiding, assisting, procuring, or advising any unlicensed person to practice massage therapy. Contrary to this rule or to a rule of the department or the board;

4. engaging in or attempting or offering to engage a client in sexual activity, including any genital contact, where provided under §3101 of these rules;

5. making deceptive, untrue, or fraudulent representations in the practice of massage;

6. practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows or has reason to know that he is not competent to perform;

7. delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified by training, experience, or licensure to perform them;

8. violating any provision of any rule of the board, or a lawful order of a board hearing, or, failing to comply with a lawfully issued subpoena;

9. operating any massage establishment unless it has been duly licensed as provided herein;

10. operating a massage establishment under a suspended, expired, or revoked license;

11. refusing to permit the board to inspect the business premises of the licensee during regular business hours;

12. practicing massage therapy when a license to practice massage therapy has been expired, revoked, suspended or otherwise acted against, including the denial of licensure by the licensing authority of another state, territory or country;

13. failure to maintain continuing property damage and bodily injury liability insurance in the operation of a massage establishment;

14. failure to perform any statutory or legal obligation placed upon a licensed massage therapist;

15. inability to practice massage with reasonable skill and safety to clients, by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of substance or as a result of any mental or physical condition;

16. engaging in the practice of massage therapy without a current massage license;

17. failure to practice massage with that level of care, skill, and treatment which is recognized by a reasonably

prudent similar massage therapist as being acceptable under similar conditions and circumstances;

18. failing to keep the equipment and premises of the massage establishment in a clean and sanitary condition;

19. engaging in the practice of reflexology without a current massage therapy license; and for the purpose of this rule, "reflexology" is defined as the manipulation of the superficial tissues of the hands and feet, based on the theory that manipulation of body reflex areas or zones can affect other body functions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3551 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Massage Therapy, LR 20: 1002 (September 1994), repromulgated LR 20:1111 (October 1994), amended LR 32:

Chapter 55. Disciplinary Actions

§5501. Guidelines for Disciplinary Actions

A. When the board finds that an applicant, provisional licensee, or licensee whom it regulates has committed any of the prohibited acts set forth in the statute or rules, the board may impose appropriate penalties within the ranges recommended in the following disciplinary guidelines.

B. Penalties imposed by the board pursuant to this section may be imposed in combination or individually, and are as follows:

1. refusal to license an applicant; revocation or suspension of license;

2. issuance of a reprimand or censure;

3. imposition of an administrative fine not to exceed $1,000 for each count or separate offense.

C. The provisions of this Section are not intended and shall not be construed to limit the ability of the board to informally dispose of disciplinary actions by agreement.

D. The provisions of this Section are not intended and shall not be construed to limit the ability of the board to pursue collateral, civil or criminal actions when appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3551 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Massage Therapy, LR 20: 1002 (September 1994), repromulgated LR 20:1111 (October 1994), amended LR 32:

Chapter 57. Minor Violations

§5701. Minor Violations

A. The board hereby deems the following violations to be minor:

1. failure to include the license number of either the massage therapist or the massage establishment in advertisements as required by this rule;

2. practicing with an inactive license in violation of these rules when the license has become automatically inactive for failure to renew, so long as the license is reactivated within 30 days of automatic reversion to inactive status. Practice for more than 30 days of automatic reversion to inactive status. Practice for more than 30 days after a license has automatically reverted to inactive status shall not be a minor violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3551 et seq.

HISTORY NOTE: Promulgated by the Department of Health and Hospitals, Board of Massage Therapy, LR 20:1002 (September 1994), repromulgated LR20:1111 (October 1994), amended LR 32:

Chapter 59. Investigation of Complaints

§5901. Investigation Procedures

A. The board shall designate a member to serve as complaint investigative officer for each complaint.

B. Each complaint shall be submitted to the CIO. Once a complaint is received, the board designated CIO will initiate a review of the allegations. After the investigation the CIO may dismiss the case or proceed to informal hearing.

C. At informal hearing the CIO hearing the matter may resolve the matter by consent agreement, which must be submitted to the board for review and action.

D. The CIO shall recommend to the board the initiation of a formal disciplinary hearing if the investigation disclosed any of the following:

1. a complaint is sufficiently serious to require formal adjudication;

2. failure of the licensee and/or applicant to respond to the CIO's correspondence concerning the complaint;

3. failure of an informal hearing to resolve all issues; or,

4. refusal of the licensee and/or applicant to comply with the recommended remedial action.

E. The CIO shall submit any recommended action to the Board in brief concise language, without any reference to the particulars of the investigation or any finding of fact or conclusions of law arrived at during the investigative process.

F. At no time shall the CIO investigate any case as authorized by the board or this section wherein said officer has any personal or economic interest in the outcome of the investigation or is personally related to or maintains close friendships with the complainant or the licensee. In such event, the CIO shall immediately notify the board, who shall have authority to appoint an "ad hoc" CIO for disposition of that case.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3551 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Massage Therapy, LR 20: 1002 (September 1994), repromulgated LR 20:1111 (October 1994), amended LR 32:

Chapter 61. Hearings

§6101. Formal Disciplinary Hearings

A. Formal Disciplinary Hearings

1. The board shall also be authorized to conduct formal disciplinary hearings.

2. The hearing shall be held before the board only after the involved licensee and/or applicant is given at least 30 days notice by registered mail. The content of the notice, as well as the conduct of the hearings, shall be governed by R.S. 49:955, being further provided that the licensee be advised of his right to be represented by legal counsel. The board shall arrange for a court reporter to make an accurate recording of all testimony presented at the hearing. By bringing a complaint, the client waives the privilege of confidentiality for purposes of the hearing.

3. The rules of evidence, notice, authority to administer oaths, issue subpoenas, conduct depositions and control confidential or privileged information, will apply to the formal adjudication hearing in accordance with the Louisiana Administrative Procedures Act. Thereafter, the unsuccessful applicant or licensee may apply for a rehearing,

as provided in R.S. 49:959, subject to further judicial review, pursuant to R.S. 49:964, 965.

4. It is the licensee's or establishment registration's continuing obligation to keep the board informed of his whereabouts. Accordingly, if notice of the hearing cannot be delivered by mail because of a change of address and the new address is not provided to the board, the board may hold the hearing in the licensee's or establishment registration's absence, after making reasonable efforts to obtain the licensee's or establishment registration's new address.

5. When the licensee or establishment registration receives notice, he may file an answer to the notice denying some or all of the charges, or offering any explanation or assert whatever defense is deemed applicable.

6. For good cause shown, the board has discretion to extend or continue the time set for the hearing for such reasons as ill health, inability to obtain counsel, the complexities of the case, or such other matters deemed by the board to present good cause if the request is done in reasonable time.

7. The board shall elect from its membership a person to act as Presiding Officer at the hearing to make rulings on objections and the admissibility of evidence and to insure that the conduct of the hearing proceeds without delay and pursuant to law. Other board members may not delegate their decision-making and fact-finding duties to the Presiding Officer nor shall the Presiding Officer have any greater weight in the decision-making process. The board's findings of fact and conclusions of law shall be signed by the majority of the board finding those facts and conclusions of law. Any board member disagreeing with those findings of fact and conclusions of law may also file a dissent in the record.

8. Any board member having reason to believe that he is biased or prejudiced against any of the parties to the proceeding or who has a personal or economic interest in the outcome shall immediately notify the remaining board members and request to be relieved of participation in the proceedings. Any party to such a hearing may file with the board an affidavit requesting a disqualification because of bias or personal or financial interest. As soon as possible, but not later than the beginning of the hearing, the majority of the board must pass upon the request for disqualification. The concerned board member shall not vote in the action to disqualify. Any doubt concerning the fitness of a board member shall be resolved in favor of disqualification. In the event of disqualification, the board shall proceed without the disqualified member. The board members needed for a quorum and majority shall be reduced to compensate for the disqualified members.

9. The parties to the hearing are urged to confer prior to the hearing or through their respective counsel to attempt to reduce or simplify the issues to be heard. The board will, however, honor any stipulations arrived at between the parties as proven fact at the hearing. The purpose of the pre-hearing conference is to ensure that the hearing is not unusually delayed by receiving testimony or other evidence on matters, which are not seriously in dispute.

10. The board shall have discretion to consolidate one or more cases for hearing involving the same or related parties, or substantially the same questions of law or fact. The board may also grant separate hearings if such a joint hearing would be prejudicial to one or more of the parties. If hearings are to be consolidated, notice must be given to all parties in advance of the hearing.

11. The presiding officer shall consider a motion to modify or quash any subpoena issued in connection with the hearing, provided that such motion is filed by registered mail with the board no later than three days prior to the hearing date, or the date scheduled for the deposition if the subpoena was issued in connection with a deposition. Possible grounds to quash or limit the subpoena include, but are not limited to: Testimony or material protected by privilege of statute, regulation, or other law; burdensomeness that would not be justified in light of the evidence's importance to the case; undue hardship on a witness; vagueness; and, immateriality.

12. The procedures to be followed in conducting the hearing, governing the order of proceeding, rulings on evidence, and the board's decision, are contained in the Louisiana Administrative Procedure Act.

13. The burden of proof rests upon the CIO who is bringing the charge before the board. No sanctions shall be imposed or order be issued, except upon consideration of the whole record, as supported by and in accordance with, reliable, probative and substantial evidence. While proof beyond all reasonable doubt is not required to establish a given fact as true, the burden must be carried by a clear preponderance of the evidence. This standard of proof shall obtain in all hearings conducted before the board and any review or examination of evidence or any hearing requested.

14. Any party or person deemed to be governed by or under the jurisdiction of R.S. 36:3501-36:3516, may apply to the board for a declaratory order or ruling in order to determine the applicability of a statutory provision or rule of this board to said party or person. The board shall issue the declaratory order or ruling in connection with the request by majority vote of the board, signed and mailed to the requesting party. The board may seek legal counsel or an attorney general's opinion in connection with any such request.

15. Judicial review and appeal of any decision or order of the board shall be governed by R.S.49:964-965.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3551 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Massage Therapy, LR 20: 1002 (September 1994), repromulgated LR 20:1111 (October 1994), amended LR 32:

Family Impact Statement

1. The Effect on the Stability of the Family. The proposed Rule will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. The proposed Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. The proposed Rule will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. The proposed Rule will have no effect on family earnings and family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. The proposed Rule will have no

effect on 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. No adverse effect on 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 on this proposed Rule by November 10, 2005, to Kayla Aymond, Executive Director, Board of Massage Therapy, 12022 Plank Road, Baton Rouge, LA 70811. Oral comments may be presented at the Board of Massage Therapy meeting, November 16, 2005, at the board's office at the address above. For more information, contact the board at (225) 771-4090.

Kayla Aymond
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Comprehensive Rule Revisions

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

There are no estimated implementation costs for this proposed rule other than publication in the *Louisiana Register*. This proposed rule deletes statute duplication and contains no new fiscal provisions. The estimated cost for publication of this rule is a minimal one-time fee of $2,040.

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

There is no estimated effect on revenue collections as these proposed rule deletions are contained in R.S. 37:3551.

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

This proposed rule, which eliminates duplication in current statute, will result in no significant costs or benefits to directly affected persons or nongovernmental entities. The provisions of the rule that would require certified instructors for massage therapy schools will result in an indeterminable positive impact for instructors and an indeterminable negative impact for non-certified instructors.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule should have a positive impact on employment and competition. Current provisions allow for non-certified instructors for massage therapy schools. By providing qualified instructors who are certified to teach this course, students should be given appropriate instruction. This should provide more students with the skills necessary to pass the National Certification Examination and State Oral Examination.

Kayla Aymond
Executive Director
0510#038

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Office of Public Health

Genetic DiseasesCNeonatal Screening
(LAC 48:V.6303)

Under the authority of R.S. 40:5 and 40:1299 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health proposes to amend LAC 48:V.6303, A., B. and G.

The proposed Rule adds screening for argininosuccinic aciduria (ASA), citrullinemia, homocystinuria, maple syrup urine disease (MSUD), medium chain acyl-CoA dehydrogenase deficiency MCADD) and includes other requirements necessary for ensuring proper laboratory testing, follow-up and reporting. The proposed Rule also increases the price of the red border lab form (Lab-10 form) for use with non-Medicaid patients from $18 to $30.

The proposed Rule should have an overall positive impact on the stability, authority, functioning, behavior and personal responsibility of the family unit in that the Rule would ensure that all Louisiana newborns are screened for an additional five metabolic diseases. All of these metabolic diseases untreated cause severe disability and the complications with some of them can be fatal.

Title 48
PUBLIC HEALTH-GENERAL
Part V. Public Health Services
Subpart 19. Genetic Diseases Services
Chapter 63. Newborn Heel Stick Screening
§6303. Purpose, Scope Methodology

A. Purpose and Scope. R.S. 40:1299.1. 2. and 3, require physicians to test Louisiana newborns for phenylketonuria, congenital hypothyroidism, sickle cell disease, biotinidase deficiency, galactosemia, argininosuccinic Aciduria (ASA), citrullinemia, homocystinuria, maple syrup urine disease (MSUD) and medium chain acyl-CoA dehydrogenase deficiency (MCADD). The Office of Public Health (OPH) maintains a laboratory for performing newborn screening tests for the above-mentioned diseases. The newborn screening battery may also be available through other approved laboratories (see Subsection G).

B. Methodology

1. Filter Paper Specimen Form, (Lab-10) used in blood specimen collection for neonatal screening, can be obtained at parish health units. There are two different types of Lab-10 forms which are color-coded.

a. For patients covered by Medicaid, including those in the Kid-Med Program, blue border forms are used. There is no charge to private providers for these blue border forms.

b. For private and non-Medicaid patients, red border Lab-10 forms are used. These red border Lab-10 forms are $30 each.

2. Private providers should order a mix of red and blue Lab-10 forms from their local parish health unit (or OPH Regional Office for certain areas) to match the Medicaid/non-Medicaid composition of newborns to be screened at their facility. The Lab-10 forms must be completely filled out.

3. For non-Medicaid eligible patients who attend a parish health unit for just the newborn screening service, the parent or guardian will be charged $30 upon registering.

B.4. - F. ...

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

1. The testing battery must include testing for phenylketonuria (PKU), congenital hypothyroidism, biotinidase deficiency, galactosemia, argininosuccinic aciduria (ASA), citrullinemia, homocystinuria, maple syrup urine disease (MSUD), medium chain acyl-CoA dehydrogenase deficiency (MCADD) and the following hemoglobinopathies: sickle cell disease, SC disease, thalassemias E disease and C disease

2. - 4. …

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

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

6. - 7. …

8. Mandatory Reporting of Positive Test Results Indicating Disease

a. To ensure appropriate and timely follow-up, positive results must be reported, along with patient demographic information as specified below to the Genetic Diseases Program Office either by FAX at (504) 568-7722 or by telephone at (504) 568-5070 and followed up by the mailing of the information to the following address: Genetic Diseases Program, P.O. Box 60630 - Room 308, New Orleans, LA 70160-0630.

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

i. PKU: report a phenylalanine level of >3 mg/dL on the initial or repeat blood specimen within 2 hours and for inconclusive results, 2 consecutive results of >2mg/dl - <3mg/dl within 2 hours;

ii. Galactosemia, argininosuccinic aciduria (ASA), citrullinemia, homocystinuria, maple syrup urine disease (MSUD) and medium chain acyl-CoA dehydrogenase deficiency (MCADD) on the initial or repeat blood specimen within 2 hours; for inconclusive results, 2 hours for 2 consecutive inconclusive results;

iii. Congenital Hypothyroidism: report confirmatory test results within 24 hours;

iv. Biotinidase Deficiency: report results within 24 hours;

v. Sickle Cell Disease: report results of FS, FSC, FSA from initial specimens within 24 hours.

8.c. - 10.a. …

b. Effective October 1, 2005, the laboratory must electronically report newborn screening results on all Louisiana newborns screened to the Genetic Diseases Program Office on a monthly basis. The file format and data layout will be determined by the Genetic Diseases Program. Essential patient data is the following and is required to be reported unless "optional" is indicated:

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

H. The Newborn Heel Stick Screening Policy for Result Reporting and Repeat Screening Post Transfusion

1. The laboratory reporting the results to the submitter must indicate that transfusion may alter all newborn screening results along with the following instruction.

Repeat Testing Recommended:
2 days after last transfusion;
and 7 days after last transfusion;
and 90 days after last transfusion.

2. Whenever possible, a specimen should be collected prior to transfusion.

I. Follow-up and Public Health Surveillance Services Fee for Hospitals not using the State Central Laboratory for the Newborn Screening Testing

1. The Genetics Office will assess a charge on a quarterly basis for follow-up and public health surveillance monitoring services from hospitals not using the State Central Laboratory. The fee is $5 per newborn and the quarterly invoice will be based on the number of infants born for that quarter. The fee entitles patients screened through an approved private laboratory the same follow-up and treatment services available to patients screened through the Office of Public Health's State Central Laboratory.

2. The Genetics Office will send the invoice by 15 days into the next quarter and the said hospital will have 25 days from receiving the invoice to send a check to the Genetics Office.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of Public Health, LR 17:378 (April 1991), LR 18:1131 (October 1992), LR 20:1386 (December 1994), LR 23:301 (March 1997), LR 27:545 (April 2001), LR 29:1490 (August 2003), LR 32:

Family Impact Statement

1. The Effect on the Stability of the Family. The proposed Rule represents a positive action toward the stability of the family as it will allow for the early detection and treatment of children affected by certain serious metabolic diseases. Left untreated, the symptoms associated with these diseases can become catastrophic health problems.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. This proposed Rule will provide more medical information to the parents of affected children and help them get their child into specialized medical care as soon as possible. This can literally make the difference between life and death for some of these conditions.

3. The Effect on the Functioning of the Family. The proposed Rule represents a positive action toward the functioning of the family as affected children would be detected and treated early, preventing the debilitating symptoms, and in some cases, fatal conditions of these disease when left untreated.

4. The Effect on the Family Earnings and Family Budget. Parents of children not covered by Medicaid or medical insurance will probably incur the cost of screening which will increase from $18 to $30. However, this is a miniscule amount compared to the cost of a care for a child with an untreated metabolic disease, such as argininosuccinic aciduria or citrullinemia. If not fatal, brain damage is the major symptom associated with these diseases when left untreated.

5. The Effect on the Behavior and Personal Responsibility of Children. The proposed Rule is beneficial toward the behavior and personal responsibility of children as it will better ensure that children affected by rare metabolic diseases will be detected and treated early. This action will prevent the catastrophic health problems associated with these diseases when left untreated. Most children detected through the newborn screening program have the opportunity to attend regular school and live normal lives.

6. The Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rule. There is no problem anticipated with performing the function as contained in the proposed Rule.

Interested persons may submit written comments on the proposed Rule until November 21, 2005, to Charles Myers, GSW, Administrator of the Louisiana Genetic Diseases Program, Office of Public Health/DHH, Brandywine III-Suite 100, 825 Kaliste Saloom Road, Lafayette, LA 70508.

Frederick P. Cerise, M.D., M.P.H.
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Genetic DiseasesCNeonatal Screening

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

The cost to the Office of Public Health for implementing this rule includes the operation of the tandem mass spectrometry testing system for the whole year. In and $200 for publishing the Notice of Intent and the Rule in the *Louisiana Register*. The Office of Public Health began the tandem mass spectrometry pilot November 1, 2004. Therefore, in FY '06 projected expenditures of $612,041 represents the additional four months of operation of the expanded testing, which are continued in the projection for FY '07 of $421,035 and FY '08 of $437,876. Also, a laboratory technologist position was added in March of 2005 to assist in the operation of this instrument. Therefore, 8 months of this salary is also included in the following years. Other laboratory costs include an upgrade to the data management system software, replacement computers and supplies. The follow-up, treatment and surveillance services will continue to be absorbed through current staffing and contracts. Increasing the price of the purchase of the lab filter paper specimen form used with non-Medicaid infants will not increase the cost to OPH as the procedures for selling the form through parish health units have been in place for 16 years. The cost to Medicaid for FY '06, FY '07 and FY '08 is determined by the number of additional tests using tandem mass spectrometry of Medicaid eligible infants (19,264) multiplied by the amount Medicaid reimburses for the CPT code for this laboratory service (#83788 @ $24.96) minus the savings from the months of not performing the test for PKU (CPT code #84030 @ $6.47) as the tandem mass spectrometry instrument also provides the values for phenylalanine used in the detection of PKU. These figures are: For FY '06, 19,264 x $24.96 = $480,829 - $124,638 (representing 7 months or 19,264 x $6.47) = $356,191; For FY '07 and FY '08, $480,829 - $213,665 (12 months) = $267,164.

Although the expanded metabolic testing includes four months, the 19,264 records billed represent seven months due to the fact that April, May and June claims would not be billed and paid until FY '06. The reduction of billing for PKU testing (#84030) includes 7 months for FY '06 as termination is scheduled for September 1, 2005, but April, May and June claims are not processed until the following year. FY '07 and

FY '08 will represent a full 12-month period of not billing for CPT #84030. The Office of Group Benefits is unable to determine an amount of cost represented by the additional testing, but does anticipate the cost to be minimal.

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

In FY '06, the Medicaid Program will draw down approximately $249,690 of federal matching funds and $187,282 is projected for FY '07 and FY '08 to cover the cost of additional tests using tandem mass spectrometry. An increase in self-generated collections will increase by approximately $182,784 due to the $12 increase in the purchase price of the filter paper specimen form used with non-Medicaid eligible infants starting December 1, 2005. A full 12-month period of the $12 increase will be realized in FY '07 and FY '08 with a total projection of $313,356. No other revenue collections are anticipated.

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

Parents, guardians and medical insurance carriers of non-Medicaid children being screened for the newborn screening battery through the State Central Laboratory will probably be charged the price of the filter paper specimen form of $30.00. The additional tests coupled with timely follow-up of positive cases will ensure that the catastrophic health problems associated with these diseases when untreated will be prevented.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition and employment is anticipated by this proposed rule.

Sharon Howard Assistant Secretary 0510#092	Robert E. Hosse Staff Director Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Office of Public Health

Tuberculosis Control Program
(LAC 51:II.503)

Notice is hereby given, in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health, pursuant to the authority in R.S. 40:5, and based on the amendment and reenactment of R.S. 40:1156, intends to amend Title 51, Part II, Chapter 5 providing for mandatory tuberculosis testing of certain individuals who are employees, volunteers or patients in certain medical and residential facilities. The first proposed Rule change would be to change the title of Chapter 5 from Health Examinations of Employees, Volunteers and Patients at Day Care Centers and Residential Facilities to Health Examinations for Employees, Volunteers and Patients at Certain Medical and Residential Facilities. This title change is consistent with the removal of Day Care Center employees and volunteers from the mandatory tuberculosis testing requirement in June 2002 and the proposed Rule change as follows. The second proposed Rule change is to add to those whose testing for tuberculosis is mandatory the employees and volunteers working in direct patient care positions in the parish health units and out-patient health care facilities of the Department of Health and Hospitals Office of Public Health.

Title 51
PUBLIC HEALTHCSANITARY CODE
Part II. The Control of Diseases
Chapter 5. Health Examinations for Employees, Volunteers and Patients at Certain Medical and Residential Facilities

§503. Mandatory Tuberculosis Testing

A. All persons prior to or at the time of employment at any medical or 24-hour residential facility requiring licensing by the Department of Health and Hospitals or at any Department of Health and Hospitals Office of Public Health parish health unit or out-patient health care facility, who are involved in direct patient care or client visits in the field, or any person prior to or at the time of commencing volunteer work involving direct patient care at any medical or 24-hour residential facility requiring licensing by the Department of Health and Hospitals or at any Department of Health and Hospitals Office of Public Health parish health unit or out-patient health care facility, who are involved in direct patient care or client visits in the field, shall be free of tuberculosis in a communicable state as evidenced by either a:

1. negative purified protein derivative skin test for tuberculosis, five tuberculin units strength, given by the Mantoux method;

2. normal chest x-ray, if the skin test is positive; or

3. statement from a licensed physician certifying that the individual is non-infectious if the x-ray is other than normal. The individual shall not be denied access to work solely on the basis of being infected with tuberculosis, provided the infection is not communicable.

B. Any employee or volunteer at a medical or 24-hour residential facility required to be licensed by the Department of Health and Hospitals or at any Department of Health and Hospitals Office of Public Health parish health unit or Department of Health and Hospitals Office of Public Health out-patient health care facility who has a positive purified protein derivative skin test for tuberculosis, five tuberculin units strength, given by the Mantoux method, or a chest x-ray other than normal, in order to remain employed or continue work as a volunteer, shall complete an adequate course of chemotherapy for tuberculosis as prescribed by a Louisiana licensed physician, or shall present a signed statement from a Louisiana licensed physician stating that chemotherapy is not indicated.

C. Any employee or volunteer at a medical or 24-hour residential facility required to be licensed by the Department of Health and Hospitals or at any Department of Health and Hospitals Office of Public Health parish health unit or Department of Health and Hospitals Office of Public Health out-patient health care facility who has a negative purified protein derivative skin test for tuberculosis, five tuberculin units strength, given by the Mantoux method, in order to remain employed or continue work as a volunteer, shall be re-tested annually as long as the purified protein derivative skin test for tuberculosis, five tuberculin units strength, given by the Mantoux method, remains negative. Any employee or volunteer converting from a negative to a positive purified protein derivative skin test for tuberculosis,

five tuberculin units strength, given by the Mantoux method, shall be referred to a physician and followed as indicated in §503.B.

D. …

AUTHORITY NOTE: Promulgated in accordance with the provisions of Louisiana Revised Statutes 40:4(A)(2) and Revised Statutes 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1219 (June 2002), amended LR 32:

Family Impact Statement

1. The Effect on the Stability of the Family. This proposed rule will enhance the stability of the family in providing for early detection of infection with tuberculosis and early treatment of the patient to minimize the untoward health effects of this contagious disease in all members of the family.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. It is envisioned that this proposed Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. This proposed Rule will enhance the functioning of the family in providing for early detection of infection with tuberculosis and early treatment of the patient to minimize the untoward health effects of this contagious disease in other members of the family.

4. The Effect on the Family Earnings and Family Budget. Early treatment of tuberculosis is done as an out-patient, which requires minimal time spent away from work and/or home. Clinic visits and drugs are provided at no charge to the patient by the Department of Health and Hospitals Office of Public Health. Patients seeking care privately will generally have their health care covered by health insurance. Those persons seeking care at a state-run hospital out-patient clinic will also receive their care free or at reduced fees. Therefore the effect on family earnings and family budget is estimated to be zero or negligible.

5. The Effect on the Behavior and Personal Responsibility of Children. It is the opinion of the tuberculosis control program staff that this proposed Rule will no effect on the behavior and personal responsibility of children.

6. The Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rule. The practice outlined in this proposed Rule has been operative for many years, but has not been codified until this time. The family has been shown to be able to cooperate with the functions called for in this proposed rule. The proposed Rule does not pose any responsibility nor additional costs upon local government, since operations of the parish health units and Department of Health and Hospitals Office of Public Health out-patient health care facilities are the responsibility of the state government.

Interested persons may submit comments on the proposed Rule to Dr. Louis Trachtman at 1201 Capitol Access Road, Bin 4, Baton Rouge, LA 70804, by November 19, 2005.

Frederick P. Cerise, M.D., M.P.H.
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Tuberculosis Control Program

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

The proposed rule will require mandatory tuberculosis testing of a DHH/OPH employee or volunteer involved in direct patient care or client visits. There are no implementation costs anticipated other than the $200 cost of printing the Notice of Intent and the Rule in the Louisiana Register. No increase in the expenditure of funds is anticipated by the DHH/Office of Public Health in the implementation of the proposed rule and the management of the tuberculosis program. This testing has been done for many years and paid for with existing funds. Likewise, there is no new workload adjustment or additional paperwork for the same reason.

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.

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

There are no costs and/or economic benefits to directly affected persons or non-governmental groups. Tuberculosis testing has been provided by DHH/OPH at no cost to employees affected and will continue under this rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no effects on competition and employment.

Sharon Howard	Robert E. Hosse
Assistant Secretary	Staff Director
0510#090	Legislative Fiscal Office

NOTICE OF INTENT

Department of Labor
Office of Workers' Compensation
Workers' Compensation Second Injury Board

Approval of Settlements; Requirements;
Computation of Time (LAC 40:III.101)

Notice is hereby given, in accordance with R.S. 49:905, et seq. that the Louisiana Department of Labor, Office of Workers' Compensation, pursuant to authority vested in the director of the Office of Workers' Compensation by R.S. 23:1378(A)(8)(a)(v) and in accordance with applicable provisions of the Administrative Procedure Act, proposes to amend Rules governing the procedures before the Workers' Compensation Second Injury Board, LAC 40:III, Chapter 1. The proposed Rules, which are set forth below amend Chapter 1, Section 101.

Title 40
LABOR AND EMPLOYMENT
Part III. Workers' Compensation Second Injury Board
Chapter 1. General Provisions
§101. Approval of Settlements; Requirements; Computation of Time

A.1. Requests for approval of the settlement of a third-party claim for settlement amounts less than $50,000 shall be submitted by facsimile transmission or hand delivery to the offices of the Second Injury Board.

2. Requests for approval of all other settlements may be submitted by United States Postal Services, facsimile transmission or hand delivery to the offices of the Second Injury Board.

B. Requests for approval of the settlement of a third-party claim shall be submitted on SIB Form C.

C. In computing the period of time allowed for response by the Second Injury Board to a request for settlement authority, the date of submission of the request shall not be included. The last day of the period shall net be included, unless it is a legal holiday, in which event the period shall run until the end of the next day which is not a legal holiday. The board shall have three working days, excluding legal holidays, to respond to the request.

D. SIB Form C

Second Injury Board
Request For Settlement Authority
Third-Party Claims Less Than $50,000
R.S. 23:1378(A)(8)(a)(iii)

All requests must be in **writing**.
All requests must be **faxed** to 225-219-5968 or **hand delivered** to the Second Injury Fund.
All **questions** must be answered and submitted with **required attachments**.

Name of Injured Worker:
Name of Workers' Compensation Insurance Carrier and/or Self-Insured Employer:
SIB Claim No:
Weekly Compensation Rate:

What is the total paid to date by the workers' compensation insurance carrier and/or self-insured employer?

a. Indemnity _____

b. Medical _____

What is the third party offer to:

a. The workers' compensation insurance carrier and or self-insured employer? _____

b. The injured worker? _____

c. Others (specify)? _____

Does the workers' compensation insurance carrier and/or self-insured employer anticipate waiving recovery of any portion of the amount paid to the injured worker?	☐ Yes* ☐ No *If yes, what amount or percentage will be waived? _____

In addition to the above responses, the following must be attached:

A recent medical report documenting current medical condition.

A completed settlement evaluation form.

Not required but recommended:

Any additional information you care to submit to support your position.

SIB Form C

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1378(A)(8)(a)(v).

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, Second Injury Board, LR 1:145 (February 1975), amended LR 3:48 (January 1977), LR 3:497 (December 1977), amended by the Department of Employment and Training, Office of Workers' Compensation, Second Injury Board, LR 17:179 (February 1991), amended by Department of Labor, Office of Workers' Compensation, Second Injury Board, LR 32:

Family Impact Statement

1. The Effect on the Stability of the Family. The proposed amendments to the Rules on the Workers' Compensation Second Injury Board will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. The proposed amendments to the Rules on the Workers' Compensation Second Injury Board will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. The proposed amendments to the Rules on the Workers' Compensation Second Injury Board will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. The proposed amendments to the Rules on the Workers' Compensation Second Injury Board will have no may effect on family earnings and family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. The proposed amendments to the Rules on the Workers' Compensation Second Injury Board will have no effect on 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. The family or a local government is not able to perform the functions contained in the proposed amendments to the Rules on the Workers' Compensation Second Injury Board.

Inquiries concerning the proposed enactment may be directed to: Karen Reiners Winfrey, Assistant Secretary, Office of Workers' Compensation Administration, Louisiana Department of Labor, P.O. 94094, Baton Rouge, LA 70804-9094.

Interested persons may submit data, views, arguments, information or comments on the proposed repeal and enactment in writing, to the Louisiana Department of Labor, P.O. Box 94094, Baton Rouge, LA 70804-9094, Attention: Karen Reiners Winfrey, Assistant Secretary, Office of Workers' Compensation Administration. Written comments must be submitted and received by the department within 10 days from the date 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 department within 20 days of the publication of this notice.

John Warner Smith
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Approval of Settlements; Requirements; Computation of Time

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

There will be no implementation costs or savings to state government as a result of these administrative rule changes. Act 257 of the 2005 Regular Legislative Session amended the procedure by which a recipient of Second Injury Fund relief may apply for prior written approval to settle a workers' compensation claim. This rule further clarifies the procedure to be used, as well as the form on which the request shall be made.

The proposed rule provides a single form on which local governmental units may interact with the Workers' Compensation Second Injury Fund in specific instances and may result in a slight decrease in expenditures. The decrease may result from the filling out of the single promulgated form in lieu of writing multi-page letters to communicate the same information.

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

There will be no direct effect on revenue collections of state or local governmental units as a result of these rule changes.

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

Employers and insurers that are being reimbursed for Second Injury Fund claims may see a decrease in their administrative costs for the processing of requests for prior written approval of settlements in amounts less than fifty thousand dollars where a third party is involved. The use of a single form may provide savings to these entities

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The Second Injury Fund provides an incentive to employers to hire workers with preexisting, permanent and partial disabilities by capping the ultimate liability of a subsequent workers' compensation claim.

John Warner Smith
Secretary
0510#062

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections
Division of Youth Services
Office of Youth Development

Crimes Committed on the Grounds of Youth Services Facilities/Office Buildings and/or Properties
(LAC 22:I.761)

The Department of Public Safety and Corrections, Youth Services, Office of Youth Development, in accordance with the provisions of the Administrative Procedure Act (R.S. 49.950 et seq.), hereby gives notice of its intent to promulgate §761, Crimes Committed on the Grounds of Youth Service Facilities/Office Buildings and/or Property.

The purpose of the promulgation of this Rule is to establish the deputy secretary's policy and procedures regarding the investigation, reporting, and prosecution of crimes committed by youth in a secure care facility, employees and/or visitors on the grounds of secure care facilities, or at any building or on any property under Youth Services (YS) control.

Title 22
CORRECTIONS, CRIMINAL JUSTICE, AND LAW ENFORCEMENT
Part I. Corrections
Chapter 7. Youth Services
Subchapter C. Field Operations
§761. Crimes Committed on the Grounds of Youth Services Facilities/Office Buildings and/or Properties

A. Purpose. To establish policy regarding the investigation, reporting, and prosecution of crimes committed by youth in a secure care facility, employees and/or visitors on the grounds of secure care facilities or at any building or on any property under Youth Services (YS) control.

B. Applicability. All employees of Youth Services. Unit heads are responsible for ensuring that the investigation and reporting requirements described herein are met.

C. Definitions

*Unit Head*Cyouth facility directors, probation and parole program director, and the deputy secretary or designee for YS Central Office.

*YS Central Office*Coffices of the deputy secretary, deputy assistant secretaries, Undersecretary of Management and Finance or designee, and their support staff.

D. Policy. It is the deputy secretary's policy that whenever a criminal act is allegedly committed, the matter will be investigated immediately by facility/office personnel (with assistance from other law enforcement agencies where appropriate), and referred to the appropriate district attorney for consideration of prosecution. In some jurisdictions, the district attorney may waive review of certain offenses or classes of offenses. Where the district attorney has waived review, the unit heads are authorized to handle such matters internally.

E. Procedures

1. A quarterly summary of referrals should be submitted to the district attorney.

2. The unit head and the district attorney may agree on specific categories of offenses that will not be reportable for consideration of prosecution except that youth facility directors must report those offenses covered by "Project Zero ToleranceCA Balanced Approach to Reducing Violence."

3. Disciplinary action will be taken against employees involved in criminal activities.

4. Failure to investigate and/or report acts covered by this rule may be cause for disciplinary action.

5. Any unit head who has knowledge of any misappropriation of public funds or assets of YS shall immediately notify the deputy secretary, the legislative auditor, and the district attorney.

6. "Project Zero ToleranceCA Balanced Approach to Reducing Violence" should be referred to for specific instructions concerning investigation reports and evidentiary documents of offenses covered therein.

7. In cases with probable cause to believe that a youth 17 years of age or older assigned to a secure care facility has committed a felony-grade offense, YS will seek to have that youth arrested, charged, and if appropriate, transferred to adult jurisdiction within the Department of Public Safety and Corrections.

F. The sheriff's office may be contacted to effect the arrest or the arrest may be effected by an employee of YS who possesses a law enforcement commission with full arrest powers from either a local law enforcement agency or a special officer's commission issued by the state police pursuant to R.S. 40:1379.1.

G. If adult jail pre-trial confinement is appropriate, after the arrest the youth facility director or designee should contact the local sheriff's office to arrange for the transfer. If the sheriff's office is unable to provide pre-trial housing, the youth facility director or designee should contact the deputy secretary or designee to arrange for the assignment of the arrestee to an adult pre-trial facility.

H. To determine the appropriateness of the adult jail pre-trial confinement, the youth facility director should consider the diagnosis of any youth who is seriously mentally ill or developmentally disabled, or whose medical condition may indicate that such a transfer is not appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1379.1, ACA Standard 3-JTS-3C-09 (Juvenile Training Schools), YS Policy Nos. A.1.4 "Project Zero ToleranceCA Balanced Approach to Reducing Violence", A.2.1 "Employee Manual", and C.5.1 "Activity Reports/Unusual Occurrence Reports".

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Youth Services, Office of Youth Development, LR 32:

Family Impact Statement

1. What effect will this Rule have on the stability of the family? The proposed Rule will not affect the stability of the family.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? The proposed Rule will not affect the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? The proposed Rule will not affect the functioning of the family.

4. What effect will this have of family earnings and family budget? The proposed Rule will not affect family earnings and family budget.

5. What effect will this have on the behavior and personal responsibility of children? The proposed Rule will not affect the behavior and personal responsibility of children.

6. Is the family or local government able to perform the function as contained in the proposed Rule? As contained in the proposed Rule, the action proposed is not a function of the family. Local government is able to perform its function, if any, as contained in the proposed Rule.

Interested persons may submit written comments until 4:30 p.m., November 10, 2005, to Kathe Zolman, Department of Public Safety and Corrections, Office of

Youth Development, 7979 Independence Blvd., State Police Bldg., Baton Rouge, LA 70806.

Simon G. Gonsoulin
Deputy Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Crimes Committed on the Grounds of Youth Services Facilities/ Office Buildings and/or Properties

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

There are no implementation costs (savings) associated with this proposed rule.

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

There will be no effect on the 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 and/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 or employment as a result of this rule.

Simon G. Gonsoulin	Robert E. Hosse
Deputy Secretary	Staff Director
0510#036	Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections
Division of Youth Services
Office of Youth Development

Furlough Process and Escorted Absence
(LAC 22:I.763)

The Department of Public Safety and Corrections, Youth Services, Office of Youth Development, in accordance with the provisions of the Administrative Procedure Act (R.S. 49.950 et seq.), hereby gives notice of its intent to promulgate §763, Furlough Process and Escorted Absence.

The purpose of the promulgation of this Rule is to establish the deputy secretary's policy and procedures regarding the temporary release on furlough of adjudicated youth for the purpose of assisting youth in maintaining family and community relations.

Title 22
CORRECTIONS, CRIMINAL JUSTICE, AND LAW ENFORCEMENT
Part I. Corrections
Chapter 7. Youth Services
Subchapter C. Field Operations
§763. Furlough Process and Escorted Absence

A. Purpose. To establish the deputy secretary's policy regarding temporary release on furlough of adjudicated youth for the purpose of assisting youth in maintaining family and community relations.

B. Applicability: deputy secretary, assistant secretary, deputy assistant secretaries, facility directors, probation and parole program director, and regional managers.

C. Policy. It is the policy of the deputy secretary to use temporary furloughs within the state as a rehabilitative tool to assist youth assigned to a center for youth in maintaining family and community relations. The Division of Youth Services (DYS) and the facility shall work together to effect the furlough program from recommendation through implementation. The deputy secretary must approve all furloughs except family emergency furloughs.

D. Definitions

Administrative Furlough Review Committee (AFRC)—the multi-disciplinary committee responsible for determining furlough eligibility.

*Escorted Absence*Ca temporary absence authorized by the director of a facility in which youth are escorted off the grounds by facility staff.

*Furlough*Cthe authorized temporary release of a qualified youth from the grounds of a center for youth, or community-based secure detention facility, without the supervision of facility staff, for the purposes of aiding in the youth's rehabilitation, maintaining and/or enhancing family and community relations, and preparing the youth to make a satisfactory transition into society after his/her release.

E. Types of Furloughs

1. Standard FurloughCapplies to all youth except for those committed to Youth Services under Children's Code Article 897.1, those assigned to a short-term program, or youth eligible for a family emergency furlough.

2. Children's Code Article 897.1 FurloughCapplies only to youth committed to Youth Services under La. Children's Code Article 897.1 based upon a violation of R.S. 14:30 first degree murder, R.S. 14:30.1 second degree murder, R.S. 14: 42 aggravated rape, R.S. 14:44 aggravated kidnapping and R.S. 14:64 armed robbery.

3. Short-Term Program FurloughCapplies only to youth assigned to a short-term program.

4. Family Emergency FurloughCthe authorized temporary release of a qualified youth due to a crisis prompted by the death or life-threatening illness or injury of a family member or legal custodian, and such furlough is deemed beneficial for the youth in meeting the needs of youth/family.

F. Furlough Eligibility Criteria, Exclusion Criteria and Procedure

1. Standard Furlough

a. Criteria for eligibility:

i. youth is on a minimum custody level; or

ii. youth is on a medium custody level, provided the youth has had no rule infraction within the past 60 calendar days; and

iii. youth is making progress on identified treatment needs, including taking medication; and

iv. youth's parent/custodian must have participated in a minimum of three family integration sessions, which may be conducted via telephone.

b. Exclusions from Standard Furlough Eligibility

i. Youth is on a maximum custody classification level.

ii. Youth is on suicide watch.

iii. Youth is under investigation for and/or has pending criminal charges.

iv. There is documented evidence of previous unsuccessful furlough.

c. Screening and Referral for Standard Furlough

i. Youth must be screened at quarterly staffing, beginning at the second quarter staffing, regional staffing or during the placement review process. If appropriate, a referral to the Administrative Furlough Review Committee (AFRC) for furlough consideration should be made by completing page 1 of the Furlough Referral and Application Form.

d. Standard Furlough Staffing

i. The AFRC must staff the furlough candidate's application using all information appropriate, but at a minimum:

(a). Progress Reports;
(b). Dormitory Management Team Review Form;
(c). Furlough Application Form;
(d). Reintegration Plan;
(e). Individual Treatment Plan; and
(f). medical considerations.

ii. The furlough recommendation is made and pages 2 and 3 of the Furlough Referral and Application Form is completed.

e. Standard Furlough Duration

i. Standard furloughs may be granted in increments of time between 2 hours to 14 consecutive days.

ii. A Standard furlough may be granted for a cumulative period up to 30 days in a calendar year, with no more than 14 consecutive days being granted/taken at any given time. Additional furlough authority greater than 30 days in a calendar year must be approved by the deputy secretary and must be submitted with justification for the need for additional furlough days.

2. Children's Code. Article 897.1 Furlough

a. Criteria for eligibility:

i. youth has served a minimum of 60 percent of his commitment and has maintained a minimum custody level for six months prior to furlough referral or has been in the physical custody of Youth Services for a minimum of three years and has maintained a minimum custody level for twelve months prior to furlough referral; and

ii. youth has made progress in Youth Services' behavior modification program referral; and

iii. youth is making progress on identified treatment needs; and

iv. youth's parent/custodian must have participated in a minimum of three family integration sessions, which may be conducted via telephone.

b. Exclusions from Children's Code. 897.1 Furlough Eligibility

i. Youth is on medium or maximum custody level.

ii. Youth is currently on suicide precautions.

iii. Youth is under investigation for and/or has pending criminal charges.

iv. There is documented evidence of a previous unsuccessful furlough.

c. Screening and Referral for Children's Code Article 897.1 Furlough

i. Youth must be screened at quarterly staffing, beginning with the second quarterly staffing, or regional staffing. If appropriate, a referral to the Administrative Furlough Review Committee (AFRC) for furlough consideration should be made by completing page 1 of the Furlough Referral and Application Form.

d. Children's Code. Article 897.1 Staffing

i. The AFRC must staff the furlough candidate's application using all appropriate information, but at a minimum:

(a). Progress Reports;
(b). Dormitory Management Team Review Form;
(c). Furlough Application Form;
(d). Reintegration Plan;
(e). Individual Treatment Plan; and
(f). medical needs;.

ii. The furlough recommendation is made by completing pages 2 and 3 of the Furlough Referral and Application Form.

e. Children's Code Article 897.1 Furlough Duration/Conditions

i. Children's Code Article 897.1 furloughs may be granted in increments of time between two hours to 14 consecutive days. Initial furloughs should be short, with subsequent furloughs being granted for longer periods of time, unless the circumstances demand otherwise.

ii. A Children's Code.Art.897.1 furlough may be granted for a cumulative period up to 30 days in a calendar year, with no more than 14 consecutive days being granted/taken at any given time. Additional furlough authority, greater than 30 days in a calendar year, must be approved by the deputy secretary and must be submitted with justification for the need for additional furlough days.

iii. If a furlough is approved, a youth will be required to wear an electronic monitoring device during the furlough and shall be monitored by the appropriate regional office.

3. Short-Term Program Furlough

a. Criteria for eligibility:

i. youth must demonstrate active participation in a short-term program; and

ii. youth is making progress on identified treatment needs; and

iii. youth is on minimum or medium custody level; and

iv. youth is within four weeks of his/her projected date of program completion; and

v. youth's parent/custodian must have participated in a minimum of three family integration sessions, which may be conducted via telephone.

b. Exclusions from short term program furlough eligibility:

i. youth is on maximum custody classification level;

ii. youth is on suicide precautions;

iii. youth is under investigation for and/or has pending legal charges; or

iv. there is documented evidenced of a previous unsuccessful furlough.

c. Screening and Referral for Short Term Program Furlough

i. Youth must be screened at the 45-day staffing. If appropriate, a referral to the AFRC for furlough consideration should be made by completing page 1 of the Furlough Referral and Application Form.

d. Short Term Program Furlough Staffing

i. The AFRC must staff the furlough candidate's application using all appropriate information, but at a minimum:

(a) Progress Reports;
(b) Dormitory Management Team Review Form;
(c) Furlough Confirmation Form;
(d) Reintegration Plan;
(e) Individual Treatment Plan; and
(f) medical needs.

ii. The furlough recommendation is made and pages 2 and 3 of the Furlough Referral and Application Form are completed.

iii. The Short Term Program Furlough must include a Reintegration/Treatment/Transitional Plan of Action containing the objectives and activities of the youth throughout the duration of the furlough. The plan of action will be documented on the Reintegration Activity for Short-Term Program Furlough Form.

e. Duration of Short Term Program Furloughs

i. Short Term Program Furloughs may be granted for a cumulative five calendar days.

ii. Short Term Program Furloughs may not exceed three consecutive days at any given time.

iii. Youth must be within four weeks of his projected date of program completion.

4. Family Emergency Furlough

a. Criteria for Eligibility. A family emergency furlough may be granted under either of the following conditions:

i. youth has confirmation/recommendation from the court that committed him/her to the custody of Youth Services; or

ii. youth is not eligible for any other type of furlough and his/her case manager recommends the family emergency furlough on the basis of individual case data/ information. The family emergency furlough will be granted only after receiving approval from the director of the facility.

b. Exclusions from consideration of family emergency furlough:

i. youth is on suicide watch;

ii. youth is under investigation for and/or has pending legal charges;

iii. youth is deemed to be at high risk for runaway or escape and/or engaging in additional criminal conduct;

iv. youth has been adjudicated under Ch. C. Art. 897.1.; or

v. there is documented evidence of previous unsuccessful furlough.

c. Referral for Family Emergency Furlough

i. A staffing must be held which includes the participation of the youth's probation officer, the dorm manager, the case manager, and the facility's deputy director, or in his absence, an assistant director. The staffing may occur via conference call.

ii. If the staffing results in a recommendation for the furlough, the deputy director or assistant director shall transmit the request for approval to the director along with all documentation verifying the emergency.

iii. If the director approves the furlough, the director shall specify the period of time allowed for the furlough.

iv. A written notice of furlough which includes the reason for the furlough, shall be prepared, signed by the director and faxed to the committing court, district attorney, deputy secretary and probation officer.

v. After faxing notice of furlough to the court and district attorney, if no written confirmation is received, a follow-up call must be made to confirm the district attorney and court's response to the proposed family emergency furlough. If there is no objection the furlough may proceed.

vi. If approved, a youth who is on a medium or maximum custody level will be required to wear an electronic monitoring device and shall be monitored by the appropriate regional office.

vii. Prior to a youth receiving a family emergency furlough, the facility director shall approve the family member(s), guardian(s), or other custodian(s) of the youth who will be overseeing the activities of the youth, providing primary care, and assuming responsibility for the youth throughout the duration of the furlough period.

d. Duration of Family Emergency Furlough

i. A family emergency furlough may not exceed three calendar days.

G. Administrative Furlough Review and Approval Process

1. Administrative Furlough Review Committee shall consist of the following:

a. deputy director or designee named by the director;

b. dorm manager for the applying youth;

c. mental health director or designee (LSUHSC) provider (if applicable);

d. school principal or designee; and

e. probation officer assigned to the applying youth, or the immediate supervisor (in person, via phone conference, or by prior interview).

2. Screening

a. Youth currently in secure facilities will be reviewed to determine the appropriateness of furloughs. Screening of youth for appropriateness of furlough will occur, at a minimum, during the quarterly staffing. It may also occur during the regional staffing or placement review process.

b. If a youth is determined to be appropriate for furlough after screening, the Administrative Furlough Review Committee will then consider the furlough within ten working days. The AFRC is required to consider multiple aspects of the youth's classification profile and treatment plan in determining furlough eligibility.

3. Referrals

a. Referrals for review of appropriateness of furlough may be made by those participating in the staffing, a probation officer, juvenile court or other interested person. Exclusion criteria must be considered prior to making the referral to the AFRC. Page 1 of the Furlough Referral Application Form shall be utilized to transmit information on youth being referred to the AFRC.

4. AFRC Review Process

a. The AFRC review process will include a thorough review and assessment of the youth's needs, strengths, and weaknesses. At a minimum, the AFRC team will consider the following prior to recommending a furlough:

i. educational/vocational needs/progress;

ii. mental health concerns;

iii. general treatment needs/progress in the areas of substance abuse, anger management, thinking errors;

iv. behavioral concerns;

v. level of participation in the behavior management program;

vi. home environment;

vii. custody level;

viii. community risk assessment;

ix. proposed aftercare/release plans;

x. special needs concerns (i.e., SMI, mental retardation, psychotropic medication needs, self harm);

xi. most recent secure custody screening documents (must have been done within the last year);

xii. escape risk; and

xiii. travel arrangements.

b. The probation officer will conduct a home study for purposes of the furlough within 10 working days. During the course of the home study the probation officer will have the proposed custodian complete or assist in the completion of the Request for Custodian Information Form. The custodian information form will be submitted to the director as part of the Furlough Referral and Application Form.

c. A schedule of the AFRC activities will be issued by the deputy director/designee and disseminated to all department heads and dorm managers. In an effort to better promote parent/guardian input, the case manager will make telephone contact and/or formal written correspondence with the youth's parent/guardian about the scheduled date and approximate time of the AFRC meeting. The parent/guardian shall be invited to participate in the meeting.

d. The AFRC will send a completed furlough application form to the director.

e. With the exception of family emergency furloughs, once approved by the director, the furlough application will be forwarded to the deputy secretary for final approval.

5. Furlough Action by Deputy Secretary

a. Once approved by the facility director, the furlough application must be transmitted to the deputy secretary for review and final approval. All documentation used to support the director's approval of the furlough must be transmitted to the deputy secretary along with the Furlough Referral and Application Form.

b. The furlough application with supporting documentation must be transmitted to the deputy secretary five working days prior to mailing of the notice to the court(s) and district attorney(s) of plans to furlough a youth.

c. The deputy secretary will notify the facility director of the decision by returning page 3 of the Furlough Referral and Application Form. If the furlough is denied, the director or case manager will meet with the youth, notify the parent/guardian and DYS.

6. Notice to Court and District Attorney

a. If the furlough is approved by the deputy secretary, the director of the facility shall provide written notice to the court(s) and district attorney(s) of plans to furlough the youth.

i. Written notice shall include:

(a). reference to R.S. 15:908 regarding the authority designated to Youth Service to authorize a temporary furlough;

(b). whether the furlough requested is for a youth sentenced under Children's Code 897.1;

(c). statement that the furlough will not be authorized over the objection of the court or if the district attorney objects, until the conclusion of a contradictory hearing; and

(d). statement that the furlough program is a continuing rehabilitative process expected to last throughout the youth's commitment.

ii. For all furloughs except emergency family furloughs, written notice shall be furnished to the court at least 14 calendar days prior to the start date of the furlough.

iii. Notice of approved furloughs will also be provided to the appropriate regional office.

H. Conditions of Furlough

1. Custody Receipt

a. As per R.S. 15:908(B), the adult assuming custody of the child for the furlough must sign a custody receipt. In most cases, the person assuming custody will be the parent or guardian. If the parent or guardian is unable to travel to the facility to assume custody of the youth, a responsible family member may accept custody of the youth. This person must be an approved adult family member, age 21 or over, who is either included on the youth's previously approved visitation list or is known to the Office of Community Services worker or the assigned probation officer. A previously approved adult may also accept custody of the youth.

2. Conditions of Furlough

a. Case managers are responsible for reviewing furlough conditions and sanctions with the youth and family member or previously approved adult who will take custody of the youth. The case manager shall provide the youth and custodian with a copy of the conditions and sanctions. Following review of the furlough conditions and sanctions with the youth and custodian, the case manager will have the youth and custodian sign the Conditions of Furlough Form acknowledging that they understand the conditions and sanctions. The youth will sign the furlough contract.

b. All furloughs require that the youth participate in urine drug screening following a furlough.

c. The custodian will also be required to read and sign a Furlough Custodian Agreement.

3. Transportation

a. The responsible adult will physically transport the youth from the facility and return the youth to the facility.

I. Return of Youth to Facility

1. The youth will be returned to the facility. Upon return to the facility the youth will be transported to the infirmary for a wellness check and mandatory urine drug test.

2. The supervising probation officer will submit a report to the facility.

3. A case manager will interview the youth and assess the success of the visit.

4. A completed report will be submitted to the court and a copy sent to the regional office.

J. Sanctions for Violation of Furlough Rules

1. Types of Violations and Available Sanctions

a. Absent without leave (AWOL):

i. disciplinary infraction for escape;

ii. twelve months in Youth Services secure custody prior to any further furlough consideration;

iii. filing of criminal charges for escape and/or related charges.

b. Positive drug screen:

i. disciplinary infraction for intoxication and/or contraband;

ii. six months in Youth Services secure custody prior to any further furlough consideration;

iii. recommendation for referral to substance abuse services;

iv. modification of needs assessment to reflect recent usage of illegal/intoxicating substances (completion of substance abuse assessment).

c. Commission of crime while on furlough:

i. disciplinary infraction for aggravated disobedience;

ii. twelve months prior to any further furlough consideration;

iii. recommendation for referral to an appropriate treatment program.

d. Other violations:

i. therapeutic interventions appropriate to behavior.

2. Documentation of Violations

a. Documentation of rule violations while on furloughs will be reported on an Unusual Occurrence Report (UOR).

b. Reports are to be written by the employee (case manager, program manager, dorm manager, security staff, or probation officer) who discovers the furlough violation.

c. The regional office is to be notified in writing of any youth placed on escape status as a result of a furlough violation. Follow procedures outlined in YS Policy No. C.2.1 "Reporting and Documenting Escapes, Apprehensions, Runaways and AWOL's" regarding escapes.

K. Facility Furlough Program

1. The director of each facility shall implement a furlough program in compliance with the intent of this policy.

2. Provisions for annual review for program effectiveness shall be included.

L. Furlough Forms. The forms referred to above shall be named as follows and contain no less than the following information.

1. Furlough referral and application form:

a. type of furlough requested;

b. youth personal, offense, and custody classification level information;

c. disciplinary infraction review section; and

d. Administrative Furlough Review Committee section.

2. Reintegration activities for short-term furlough:

a. activities and appointments to be completed while on furlough.

3. Request for custodian information:

a. youth personal information;

b. information about makeup of custodial family, address, phone, work address;

c. information about the furlough custodian, his relationship to the youth, his criminal history.

4. Notice to court and district attorney:

a. reference to R.S. 15:908 regarding the authority designated to Youth Service to authorize a temporary furlough;

b. whether the furlough requested is for a youth sentenced under Children's Code 897.1;

c. statement that the furlough will not be authorized over the objection of the court or if the district attorney objects, until the conclusion of a contradictory hearing; and

d. statement that the furlough program is a continuing rehabilitative process expected to last throughout the youth's commitment.

5. Custody receipt:

a. acknowledgement of conditions and duration of the furlough, signed by the facility director;

b. acknowledgement of conditions and duration of furlough, and assumption of safety, well-being, and return of the youth, signed by the furlough custodian.

6. Furlough contract:

a. signed statements from youth that the conditions of the furlough have been explained to him, that he understands them, that he will follow them, that he understands that approval of future furloughs depends on the success of the instant furlough, and a telephone number for him to contact in the event concerns or questions arise.

b. conditions of furlough, setting forth the general terms and conditions of furlough, the sanctions for violating these conditions, notice that the youth will be requires to submit to drug testing upon his return from furlough.

7. Furlough custodian agreement:

a. acknowledgement of and agreement to certain facts, including that the youth will reside with the furlough custodian and not leave the state, that he can provide housing, meals and transportation to and from the facility, that he understands the conditions of furlough, and other pertinent information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:405.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Youth Services, Office of Youth Development, LR 32:

Family Impact Statement

Furloughs will provide an opportunity for the youth to slowly reintegrate back into the home and community, and give him experience in using new behavior and attitude changes that he has learned while in the secure facility. This will ideally result in positive changes and experiences for the family unit as well.

Interested persons may submit written comments until 4:30 p.m., November 10, 2005, to Kathe Zolman, Youth Services, Department of Public Safety and Corrections, Office of Youth Development, 7979 Independence Blvd., State Police Building, Baton Rouge, LA 70806.

Simon G. Gonsoulin
Deputy Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Furlough Process and Escorted Absence

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

The estimated cost to state government is $1,875. The costs associated with the implementation of these rules to the Office of Youth Development include funding for officers supervising the youth on furlough and the Global Positioning System equipment, which is placed on each furloughed youth charged with a crime under CCP Art. 897.1. Costs were estimated on 50 youth receiving a furlough in FY 05-06 and 06-07. The cost of the equipment is $7.68/day. Costs were estimated based on 25 youth per year falling into this category and requiring the GPS monitoring.

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 are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Simon G. Gonsoulin	Robert E. Hosse
Deputy Secretary	Staff Director
0510#032	Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections
Division of Youth Services
Office of Youth Development

Freon RecoveryCCertification of
Technicians and Recovery Equipment
(LAC 22:I.703)

The Department of Public Safety and Corrections, Youth Services (YS), Office of Youth Development, in accordance with the provisions of the Administrative Procedure Act (R.S. 49.950 et seq.), hereby gives notice of its intent to promulgate §703, Freon RecoveryCCertification of Technicians and Recovery Equipment.

The purpose of the promulgation of this Rule is to provide for procedures to comply with the refrigerant recycling requirements of the Clean Air Act (CAA).

Title 22
CORRECTIONS, CRIMINAL JUSTICE, AND LAW ENFORCEMENT
Part I. Corrections
Chapter 7. Youth Services
Subchapter A. Administrative
§703. Freon RecoveryCCertification of Technicians and Recovery Equipment

A. Purpose. To provide for procedures to comply with the refrigerant recycling requirements of the Clean Air Act (CAA).

B. Applicability: deputy secretary, undersecretary or designee, deputy assistant secretaries, youth facility directors, probation and parole program director and regional managers.

C. Definitions

*Regional Managers*Cthe managers of the Division of Youth Services field offices located throughout the state.

*Unit Head*Cyouth facility directors, probation and parole director, and the deputy secretary or designee for Youth Services.

*YS Central Office*Coffices of the deputy secretary, deputy assistant secretaries, and undersecretary or designee of the Office of Management and Finance, of the Office of Youth Development and their support staff.

D. Policy. It is the deputy secretary's policy to comply with Section 608 of the CAA, Refrigerant Recycling and Technician Certification.

E. Procedures. Each unit head shall ensure compliance with the following:

1. utilize service practices that maximize recycling of ozone-depleting compounds during the servicing and disposal of air conditioning and refrigeration equipment;

2. either:

a. certify to the Environmental Protection Agency (EPA) that recycling or recovery equipment has been acquired and that persons are adequately trained in the use of appropriate equipment, servicing or disposing of air conditioning or refrigeration equipment (including automobile air conditioners); or

b. utilize outside vendors with approved equipment and practices to provide this service.

AUTHORITY NOTE: Promulgated in accordance with Section 608 of the Clean Air Act, 1990, as amended (CAA), including final regulations published on March 14, 1993 (58 FR 28660), and the prohibition that became effective on July 1, 1992.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Youth Services, Office of Youth Development, LR 32:

Family Impact Statement

1. What effect will this Rule have on the stability of the family? The proposed Rule will not affect the stability of the family.

2. What effect will this Rule have on the authority and rights of persons regarding the education and supervision of their children? The proposed Rule will not affect the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this Rule have on the functioning of the family? The Rule will not affect the functioning of the family.

4. What effect will this Rule have of family earnings and family budget? This Rule will not affect family earnings or family budget.

5. What effect will this Rule have on the behavior and personal responsibility of children? This Rule will not affect the behavior or personal responsibility of children.

6. Is the family or local government able to perform the function as contained in the proposed Rule? No, as contained in the proposed Rule, the action proposed is strictly a state enforcement function.

Interested persons may submit written comments until 4:30p.m., November 10, 2005, to Kathe Zolman, Department of Public Safety and Corrections, Office of Youth Development, 7979 Independence Blvd., State Police Bldg., Baton Rouge, LA 70806.

Simon G. Gonsoulin
Deputy Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Freon RecoveryCCertification of Technicians and Recovery Equipment

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

There are no implementation costs (savings) associated with this proposed rule. This is a longstanding policy already in place at Youth Services.

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

There will be no effect on the 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 and/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 or employment as a result of this rule.

Simon G. Gonsoulin	Robert E. Hosse
Deputy Secretary	Staff Director
0510#035	Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections
Division of Youth Services
Office of Youth Development

Marriage Requests (LAC 22:I.721)

The Department of Public Safety and Corrections, Youth Services, Office of Youth Development, in accordance with the provisions of the Administrative Procedure Act (R.S. 49.950 et seq.), hereby gives notice of its intent to promulgate §721.

The purpose of the promulgation of this Rule is to establish the deputy secretary's policy and procedure regarding youth marriage requests.

Title 22
CORRECTIONS, CRIMINAL JUSTICE, AND LAW ENFORCEMENT
Part I. Corrections
Chapter 7. Youth Services
Subchapter B. Classification, Sentencing, and Service Functions
§721. Marriage Requests

A. Purpose. To establish the deputy secretary's policy concerning youth marriage requests.

B. Applicability: deputy secretary, deputy assistant secretaries, and youth facility directors. It is the responsibility of the youth facility directors to convey the contents of this policy to youth who make a request to be married while assigned to a secure care facility. The legal age for obtaining a marriage license is 18 years old.

C. Policy. It is the deputy secretary's policy that youth marriage requests be handled in accordance with the procedures outlined herein.

D. Procedures

1. A youth's request to be married should be submitted to the youth facility director (director) for review.

2. The youth is required to participate in at least one counseling session with the facility chaplain, which is intended to assess the youth's level of responsibility to make a decision of this nature. The director will discuss the marriage proposal with both parties, either personally or through a chaplain, and document that the parties were counseled. In addition, the director will insure that the appropriate staff person provides a courtesy notification to the parent/guardian of the youth's marriage request. Documentation of these actions must be filed in the youth's case record under Clip II.

3. The youth must certify that both parties meet all legal qualifications for marriage. The youth is responsible for gathering this information, but may request assistance from his/her case manager.

4. If the chaplain chooses not to perform the marriage, he/she will inform both parties. In this situation, the chaplain will speak with the individual who is to perform the marriage to insure that they are fully aware of the situation of the youth. Only approved and licensed authorities (e.g., clergy and judges) will be permitted to perform the marriage ceremony.

5. If both parties are assigned to secure care facilities, the marriage will be postponed until one of the parties has been released.

6. The youth making the request must pay for all costs associated with the marriage ceremony.

7. Nothing in this policy is intended to preclude staff from volunteering, with the director's approval, to assist the youth with the marriage ceremony, as long as such assistance does not interfere with other facility activities and staff responsibilities.

8. Absent unusual circumstances related to legitimate safety concerns, the director should approve the marriage request and set an appropriate time and place for the ceremony. Furloughs will not be granted for a marriage ceremony.

AUTHORITY NOTE: Promulgated in accordance with Turner v. Safley, 482 U.S. 78, 96 L.Ed.2d 64, 107 S.Ct. 2254 (1987); R.S. 9:201 through 204: A.C.A. Standards 3-JTS-5C-01, 5C-05, and 5C-08 (Juvenile Training Schools).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Youth Services, Office of Youth development, LR 32:

Family Impact Statement

1. What effect will this Rule have on the stability of the family? The proposed Rule will not have a negative effect on the family.

2. What effect will this Rule have on the authority and rights of persons regarding the education and supervision of their children? The proposed Rule will not affect the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this Rule have on the functioning of the family? The proposed Rule will not negatively affect the functioning of the family.

4. What effect will this Rule have of family earnings and family budget? The proposed Rule will not negatively affect family earnings and family budget.

5. What effect will this Rule have on the behavior and personal responsibility of children? This Rule will not affect the behavior and personal responsibility of children.

6. Is the family or local government able to perform the function as contained in the proposed Rule? Yes, the family and local government will be able to perform the function, if any, as contained in the proposed Rule.

Interested persons may submit written comments until 4:30 p.m., November 10, 2005, to Kathe R. Zolman, Department of Public Safety and Corrections, Office of Youth Development, 7979 Independence Blvd., State Police Bldg., Baton Rouge, LA 70806.

Simon G. Gonsoulin
Deputy Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Marriage Requests

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

There are no estimated costs (savings) to state or local government.

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

There will be 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 will be 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 or employment as a result of this rule.

Simon G. Gonsoulin	Robert E. Hosse
Deputy Secretary	Staff Director
0510#034	Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections
Division of Youth Services
Office of Youth Development

Selective Service Registration (LAC 22:I.701)

The Department of Public Safety and Corrections, Youth Services, Office of Youth Development, in accordance with the provisions of the Administrative Procedure Act (R.S. 49.950 et seq.), hereby gives notice of its intent to promulgate §701, Selective Service Registration.

The purpose of the promulgation of this Rule is to establish the deputy secretary's policy and procedures regarding Selective Service Registration for employment or appointment to a classified or unclassified state civil service position.

Title 22
CORRECTIONS, CRIMINAL JUSTICE, AND LAW ENFORCEMENT
Part I. Corrections
Chapter 7. Youth Services
Subchapter A. Administration
§701. Selective Service Registration

A. Purpose. To establish the deputy secretary's policy regarding Selective Service Registration for employment or appointment to a classified or unclassified state civil service position.

B. Applicability: undersecretary, deputy assistant secretaries, probation and parole program director, youth facility directors, and all human resource personnel.

C. Policy. It is the policy of the deputy secretary that any person who is required to register for the federal draft under Section 3 of the Military Selective Service Act (50 U.S.C. App. §453) must register for such draft prior to employment or appointment to a classified or unclassified position with Youth Services (YS).

D. Definitions

*Unit Head*Cyouth facility directors, probation and parole program director, and the deputy secretary or designee for YS Central Office.

*Y.S. Central Office*Coffices of the deputy secretary, undersecretary of the office of management and finance, assistant secretary of the office of youth development, and their support staff.

E. Procedures

1. Each unit head is responsible for verifying that all male applicants, age 18 through 25, who are required to register with Selective Service provide proof of such registration in order to be eligible for classified or unclassified state civil service employment.

2. The applicant's selective service card will be copied and the copy attached to the applicant's application.

3. If the applicant does not have his selective service card available, he must complete and sign the Verification of Selective Service Registration form stating that he has registered with Selective Service, will present his Selective Service card as soon as possible or be terminated from employment.

4. A veteran of the armed forces of the United States may submit a copy of his discharge papers or his discharge certificate as verification of service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:33 and the Military Selective Service Act, 50 U.S.C. App. §453.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Youth Services, Office of Youth Development, LR 32:

Family Impact Statement

1. What effect will this Rule have on the stability of the family? The proposed Rule will not affect the stability of the family.

2. What effect will this Rule have on the authority and rights of persons regarding the education and supervision of their children? The proposed Rule will not affect the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this Rule have on the functioning of the family? The Rule will not affect the functioning of the family.

4. What effect will this Rule have of family earnings and family budget? This Rule will not affect the family earnings or family budget.

5. What effect will this Rule have on the behavior and personal responsibility of children? This Rule will not affect the behavior or personal responsibility of children.

6. Is the family or local government able to perform the function as contained in the proposed Rule? No, the action proposed is a state enforcement function.

Interested persons may submit written comments until 4:30 p.m., November 10, 2005, to Kathe Zolman, Department of Public Safety and Corrections, Office of Youth Development, 7979 Independence Blvd., State Police Bldg., Baton Rouge, LA 70806.

Simon G. Gonsoulin
Deputy Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Selective Service Registration

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

There are no implementation costs (savings) associated with this proposed rule. OYD is promulgating the longstanding policy of this office regarding Selective Service Registration.

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

There will be no effect on the 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 and/or economic benefits to directly affected persons or non-governmental groups. The promulgation of this policy merely brings into rule an already existing requirement of registration for the federal draft as a condition of employment.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition or employment as a result of this rule.

Simon G. Gonsoulin	Robert E. Hosse
Deputy Secretary	Staff Director
0510#033	Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections
Office of Corrections Services

Adult InstitutionsCNon-Medical Furloughs
(LAC 22:I.305)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.), the Louisiana Department of Public Safety and Corrections, Corrections Services, amends the contents of §305.Adult Institutions Non-Medical Furloughs.

The purpose of the amendment of the aforementioned regulation is to make clarifications to the existing regulation. These clarifications include the adding of definitions and changes to the applicability, as well as the eligibility section of the regulation.

Title 22
CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT
Part I. Corrections
Chapter 3. Adult and Juvenile Services
Subchapter A. General
§305. Adult Institutions Non-Medical Furloughs

A. Purpose. To establish the secretary's policy regarding non-medical furloughs.

B. Applicability. Chief of operations, assistant secretary, director of probation and parole, and unit heads. Each unit head shall ensure that appropriate procedures are in place to comply with the provisions of this regulation.

C. Definitions

*Non-Medical Furlough*Ca release from incarceration during the last six months of an inmate's sentence for the purpose of assisting in his transition into society.

*Non-Medical Furlough Violation*Cthe commission of any new offense, as well as the failure to follow rules and guidelines while on non-medical furlough.

*Non-Medical Furlough Residence*Ca verified, established residence of an approved family member where the inmate will reside during the non-medical furlough.

*Institution*Cincludes, for the purpose of this regulation, state operated prison facilities, Winn Correctional Center, Allen Correctional Center, local jail facilities, and community rehabilitation centers under contract to or under cooperative endeavor with the Department of Public Safety and Corrections.

*Unit Head*Cwardens of institutions, directors of community rehabilitation centers and local law enforcement authorities, i.e. sheriffs, chiefs of police, and administrators of local jail facilities.

D. Policy

1. It is the secretary's policy that non-medical furloughs typically will be reserved only for those inmates in work release programs. This regulation sets forth minimum requirements necessary for approval of a non-medical furlough (although such non-statutory minimum requirements may be waived by the secretary at his discretion) and does not prevent denial of a non-medical furlough to any inmate whose record, medical or mental health status, or observable behavior indicates that approval would not be appropriate or who, in the unit's head's discretion, is not otherwise acceptable. Nothing herein acts to authorize any non-medical furlough when, in the belief of responsible institutional staff, there is a reasonable risk to public safety or is likely to evoke adverse public reaction. Under no circumstances shall a non-medical furlough exceed 72 hours. Out-of-state non-medical furloughs are not authorized.

E. Eligibility. Adult offenders must meet the following criteria in order to be eligible for a furlough:

1. served at least one year in physical custody and have a good record of institutional adjustment;

2. six months or less to discharge;

3. must be classified as minimum custody according to the criteria of the institution where confined and have exemplary conduct;

4. must not have escaped, attempted to escape, or abetted an escape during the preceding seven years;

5.a. inmates serving sentences for these offenses:

i first degree murder;

ii. second degree murder;

iii. attempted murder;

iv. aggravated rape;

v. attempted aggravated rape;

vi. forcible rape;

vii. aggravated kidnapping;

viii. aggravated arson;

ix. armed robbery;

x. attempted armed robbery;

xi. producing, manufacturing, distributing or dispensing or possession with intent to produce, manufacture, distribute or dispense a Schedule I or II controlled dangerous substance (R.S. 40:964);

xii. habitual felony conviction (R.S. 15:529.1);

b. are eligible for non-medical furloughs only during the last six months of their sentence. In accordance with R.S. 15:833.B.(3)(a) and (c) the provisions of this Section cannot be waived;

6. generally, inmates serving a sentence for any crime enumerated in Department Regulation No. B-08-009 "Sex Offender Notification and Registration Requirements" are ineligible for furlough consideration. However, if specific circumstances warrant consideration and a sex offender is approved for a non-medical furlough, notification procedures must be followed as outlined in Department Regulation No. B-08-009.

F. Procedures

1. Non-medical furlough recommendations must be submitted by the unit head at least 30 days prior to the start of the requested furlough period on the Non-Medical Furlough Recommendation Form (see Attachment 1). The unit head's comments should address the inmate's adjustment while incarcerated, as well as his overall behavior, and whether nor not there is a victim notice and registration form on file.

2. Non-medical furloughs should not be requested for inmates even though they meet the established criteria when it is known to the unit head that the inmate might present a danger to himself or others or cause adverse public reaction should he be released.

3. The unit head's favorable recommendation shall be sent to the secretary.

4. The secretary will generally route the request to the chief of operations for review of compliance with applicable law and policy. In any event, the secretary may:

a. concur with the unit head's recommendation and approve the non-medical furlough;

b. seek additional information prior to rendering a decision; or

c. disapprove the non-medical furlough request.

5. When a non-medical furlough is being considered, the Office of Adult Services will contact the sheriff and district attorney in the parish of conviction and the sheriff and/or chief of police in the jurisdiction of the furlough residence.

6. If a victim notice and registration form has been filed pursuant to the provisions of Department Regulation No. C-01-007 "Crime Victims Services Bureau," the Office of Adult Services (OAS) will contact that person or persons to seek their comments.

7. It shall be the unit head's responsibility to notify the victim or family member by certified mail of the inmate's release if the non-medical furlough is approved. In the event the inmate is housed in a local jail facility, or community rehabilitation center under contract to or under cooperative endeavor agreement with the department, notification shall be made by OAS.

8. If approved, the non-medical furlough will be for a specific time period, not to exceed three days. The unit head will be notified of the secretary's decision.

9. It is the unit head's responsibility to ensure that a DNA sample has been obtained and to verify the non-medical furlough plan, transportation, and coordination with the approved family member prior to the inmate's release.

10. Upon approval of the secretary and prior to the inmate's departure, a Non-Medical Furlough Agreement Form (see Attachment 2) outlining the conditions of the non-medical furlough shall be signed by the inmate. In addition, the inmate's approved family member must sign the form agreeing to be responsible for the inmate and to ensure that transportation is provided. (No public transportation is allowed.) A copy of the Non-Medical Furlough Agreement Form shall be filed in the inmate's record.

11. All non-medical furlough violations must be reported utilizing the Non-Medical Furlough Violation Report Form (see Attachment 3). The chief of operations will maintain statistical data regarding furlough violations in accordance with La. R.S. 15:833 C.

G. Attachment 1: Non-Medical Furlough Recommendation

The below listed inmate is being recommended for a non-medical furlough. The inmate meets all statutory and regulatory requirements. In my opinion, the inmate constitutes only minimal danger to himself or to society.

One time only for a period of _____

Inmate Name_____DOC Number_____

Purpose of Furlough_____

Name, Relationship, Address and Telephone number of the person with whom the inmate will reside while on Furlough:

Name_____Relationship_____

Address_____

Telephone_____

Unit Head's Comments:

_____

Unit Head Chief of Operations Approved/Disapproved

_____

Secretary Approved/Disapproved

H. Attachment 2: Non-Medical Furlough Agreement

NON-MEDICAL FURLOUGH AGREEMENT

_____ _____

Inmate's Name DOC Number

The above named and numbered inmate is authorized to be on a non-medical furlough commencing at _____AM/PM on _____.

The inmate will reside with _____ relationship _____, telephone number _____ address_____.

I agree to abide by the following rules. I understand that my failure to do so may result in the suspension of the

non-medical furlough, disciplinary action, and, if applicable, criminal prosecution.

1. I will return to _____ on or before _____.

2. I will remain within the boundaries of _____ Parish during this period, and at the address indicated above during the hours of 10 p.m. until 8 a.m.

3. I will not have in my possession any firearms, or other dangerous weapons, nor consume or possess any alcoholic beverages or illegal drugs.

4. I will not engage in any type of criminal activity nor will I associate with anyone known to be engaged in such activities.

5. I will not operate a motor vehicle while on furlough, and I will avoid places of harmful or disreputable character. I will not visit anyplace where alcohol is the major product served or sold.

6. I understand that as a condition of the non-medical furlough, I agree to submit to a urinalysis test at any time so requested, and assume the cost of the test.

7. I agree to report immediately any arrests, problems or unusual occurrences to the institutional staff member assigned as liaison.

8. I understand that failure to return from furlough at the designated time may result in my being charged with escape.

Inmate's Signature _____

I, _____, agree to accept responsibility for the above inmate and agree to provide the necessary residence and transportation for the inmate.

I have also read and understand the conditions stated above.

Make/Model/Color of transporting vehicle; License Plate Number:

_____

Signature of family member_____

Releasing authority_____

I. Attachment 3: Non-Medical Furlough Violation Report

Inmate Name _____ DOC Number_____Age____

The above named inmate violated the condition(s) of his non-medical furlough agreement:

Date and Time _____

Brief explanation of violation

_____

Inmate's instant offense_____

Length of sentence_____

Attached is a copy of the inmate's State Police and FBI rap sheets.

_____ _____

Unit Head Institution

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:811(C), R.S. 15:833.

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 4:487 (December 1978), amended LR 8:274 (June 1982), LR 15:853 (October 1989), LR 32:

Family Impact Statement

In accordance with the Administrative Procedure Act, R.S. 49:953(A)(1)(a)(viii) and R.S. 49:972, the Department of Public Safety and Corrections, Corrections Services, hereby provides the Family Impact Statement.

Amendment of the current LAC 22:I.305, Adult Offender Furloughs, by the Department of Public Safety and Corrections, Corrections Services, will have no effect on the stability of the family, on the authority and rights of parents regarding the education and supervision of their children, on the functioning of the family, on family earnings and family budget, on the behavior and personal responsibility of children or on the ability of the family or a local government to perform the function as contained in the proposed Rule amendment.

Interested persons may submit written comments until 4:30 p.m., November 10, 2005, to Melinda L. Long, Department of Public Safety and Corrections, Office of Adult Services, 504 Mayflower Street, Baton Rouge, LA 70804.

Richard L. Stalder
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Adult Institutions
Non-Medical Furloughs

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

There are no estimated costs or savings to state or local governmental units.

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 no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Jannitta Antoine
Deputy Secretary
0510#072

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections
Office of State Fire Marshal

Emergency Generators for Health Care Facilities
(LAC 55:V.1301)

In accordance with the provisions of R.S.40:1563 relative to the authority of the Office of State Fire Marshal to promulgate and enforce rules, the Office of State Fire Marshal hereby proposes to amend the following Rule regarding emergency generators for health care facilities.

Title 55
PUBLIC SAFETY
Part V. Fire Protection
Chapter 13. Health Care Facilities; Hospitals
§1301. Emergency Generators for Health Care Facilities

A. In addition to the requirements of the *Life Safety Code* as set forth in previous regulations, all hospitals, skilled nursing facilities or any other facility utilizing life support systems on a 24-hour day basis shall comply with the following.

1. Emergency power must be provided in conformity with NFPA Code 99 for a minimum 48 hour duration.

2. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1651(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 8:15 (January 1982), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 15:95 (February 1989), LR 23:1697 (December 1997), LR 32:

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 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 may submit written comments on this proposed amendment to Henry Fry at 8181 Independence Boulevard, Baton Rouge, LA 70806. Comments will be accepted through close of business November 15, 2005.

Stephen J. Hymel
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Emergency Generators for Health Care Facilities

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

This rule change will not result in any increased costs or savings to state or local governmental units.

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 units.

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

There will be no additional costs or benefit to affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Stephen J. Hymel
Undersecretary
0510#039

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections
Office of State Police
Applied Technology Unit

Analysis of BreathCMaintenance Inspection for Intoxilyzer 5000 (LAC 55:I.515)

In accordance with the provisions of R.S.32:663 relative to the authority of the Office of State Police to promulgate and enforce rules, the Office of State Police hereby proposes to amend the following rule regarding the maintenance inspection for the Intoxilyzer 5000.

Title 55
PUBLIC SAFETY
Part I. State Police
Chapter 5. Breath and Blood Alcohol Analysis Methods and Techniques
Subchapter A. Analysis of Breath
§515. Maintenance Inspection for the Intoxilyzer 5000

A. Maintenance inspection shall be performed on a routine basis at least once every four months by the applied technology director, breath analysis supervisor, breath analysis instructor specialist, or applied technology specialist. Items to be inspected shall include, but not be limited to the following:

1. clean instrument;
2. running of a known alcohol value thereby checking the instrument and calibration. Results shall be within plus or minus 0.010 grams percent of the known alcohol value;
3. insure that the instrument is locked;
4. check printer to see if it is printing out properly;
5. check breath tube inlet hose;
6. in event repair work is needed, it shall be recorded in detail.

B. Those Intoxilyzer 5000 machines whose current four month certification period ends between September 2, 2005 and December 31, 2005 shall have an extended certification period and shall not be due for recertification maintenance inspection until an additional 180 days after the current recertification anniversary date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 14:364 (June 1988), repromulgated LR 14:444 (July 1988), amended LR 17:675 (July 1991), repromulgated LR 17:798 (August 1991), amended by the Department of Public Safety and Corrections, Office of State Police, Applied Technology Unit, LR 32:

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 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 may submit written comments on these proposed amendments to Sgt. Terry Chustz at 7901 Independence Boulevard, Baton Rouge, LA 70808. Comments will be accepted through close of business November 15, 2005.

Stephen Hymel
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Analysis of BreathCMaintenance Inspection for Intoxilyzer 5000

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

This change in agency rule, which extends the current period of certification for the Intoxilyzer 5000 machines whose recertification anniversary date is before December 31, 2005, will not result in any increased costs or savings to state or local governmental units.

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

The proposed rule will have no effect on revenue collections of state or local governmental units.

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

There are no estimated costs and/or economic benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Stephen J. Hymel	Robert E. Hosse
Undersecretary	Staff Director
0510#066	Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections
Office of State Police
Applied Technology Unit

Analysis of BreathCOperator Certification
(LAC 55:I.509)

In accordance with the provisions of R.S.32:663 relative to the authority of the Office of State Police to promulgate and enforce rules, the Office of State Police hereby proposes to amend the following Rule regarding the certification of operators of the Intoxilyzer 5000.

Title 55
PUBLIC SAFETY
Part I. State Police
Chapter 5. Breath and Blood Alcohol Analysis Methods and Techniques
Subchapter A. Analysis of Breath
§509. Permits

A. Upon determining the qualification of individuals to perform such analysis and duties, and after submitting an application for certification, the Louisiana Department of Public Safety and Corrections shall issue permits which shall be effective for the following periods with respect to classification.

1. Operator's Certification

a. Operators shall be certified for a period of two years following successful completion of the 16-hour operator's training course. These permits may be renewed after a refresher course given by the Applied Technology Unit or any other agency approved by the Applied Technology Unit.

b. In addition to being certified on any instrument currently approved by the Applied Technology Unit, an operator may also attend a specified course for certification on any new instrument that may be approved by the Applied Technology Unit. These permits shall also be in effect for a period of two years.

2. Breath Alcohol Testing Field Supervisors. Breath alcohol testing field supervisors shall be certified for a period of two years.

3. Instructors. Instructors shall be certified for a period of five years. However, once he is no longer involved in a chemical testing program, his certification shall terminate and then only be recertified after he has once again become involved in a chemical testing program and demonstrated his knowledge of instructions to the applied technology director.

4. Maintenance. Once an applied technology director, breath analysis supervisor, breath analysis instructor specialist, or applied technology specialist is initially certified, his permit shall remain effective for the duration of his employment.

B. Those permits with expiration dates between September 02, 2005 and December 31, 2005 are extended and shall be valid for an additional 180 days from the current listed date of expiration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 4:390 (October 1978), amended LR 6:660 (November 1980), amended by the Department of Public Safety and Corrections, Office of State Police, LR 11:256 (March 1985), LR 14:363 (June 1988), repromulgated LR 14:443 (July 1988), amended LR 17:674 (July 1991), repromulgated LR 17:797 (August 1991), amended by LR 27:1931 (November 2001), amended by the Department of Public Safety and Corrections, Office of State Police, Applied Technology Unit, LR 32:

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 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 may submit written comments on these proposed amendments to Sgt. Terry Chustz at 7901 Independence Boulevard, Baton Rouge, LA 70808. Comments will be accepted through close of business November 15, 2005.

Stephen Hymel
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Analysis of BreathCOperator Certification

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

This change in agency rule, which extends the current period of certification for law enforcement officers whose training certification on the use and operation of the Intoxilyzer 5000 will expire before December 31, 2005, and will not result in any increased costs or savings to state or local governmental units.

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

The proposed rule will have no effect on revenue collections of state or local governmental units.

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

There are no estimated costs and/or economic benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Stephen J. Hymel	Robert E. Hosse
Undersecretary	Staff Director
0510#065	Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections
Office of State Police

Motor Carrier Safety and Hazardous Materials
(LAC 33:V.10303)

The Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, proposed to amend LAC 33:V.10303 pertaining to Motor Carrier Safety and Hazardous Material requirements to restate the revision date of the previously adopted Parts of 49 CFR and to update the titles of the various Parts as authorized by R.S. 32:1501 et seq.

Title 33
ENVIRONMENTAL QUALITY
Part V. Hazardous Waste and Hazardous Materials
Subpart 2. Department of Public Safety and Corrections Hazardous Materials
Chapter 103. Motor Carrier Safety and Hazardous Materials
§10303. Federal Motor Carrier Safety and Hazardous Materials

A. The following federal motor carrier safety regulations and hazardous materials regulations promulgated by the United States Department of Transportation, revised as of October 1, 2005, and contained in the following Parts of 49 CFR as now in effect or as hereafter amended, are made a part of this Chapter.

Hazardous Material Regulations	
Part 171	General Information, Regulations, and Definitions
Part 172	Hazardous Materials Table, Special Provisions, and Hazardous Materials Communications, Emergency Response Information, and Training Requirements
Part 173	ShippersCGeneral Requirements for Shipments and Packagings
Part 177	Carriage by Public Highways
Part 178	Specifications for Packagings
Part 180	Continuing Qualification and Maintenance of Packagings
Motor Carrier Safety Regulations	
Part 382	Controlled Substances and Alcohol Use and Testing
Part 383	Commercial Driver's License Standards; Requirements and Penalties
Part 385	Safety Fitness Procedures
Part 390	Federal Motor Carrier Safety Regulations; General
Part 391	Qualifications of Drivers
Part 392	Driving of Commercial Motor Vehicles
Part 393	Parts and Accessories Necessary for Safe Operation
Part 395	Hours of Service of Drivers
Part 396	Inspection, Repair, and Maintenance
Part 397	Transportation of Hazardous Materials; Driving and Parking Rules

AUTHORITY NOTE: Promulgated in accordance with R.S. 32: 1501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 14:3 (January 1988), amended LR 17:1115 (November 1991), LR 19:351 (March 1993), LR 20:58 (January 1994), LR 24:956 (May 1998), LR 24:2321 (December 1998), LR 29:711 (May 2003), LR 32:

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 o 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 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 may submit written comments to Tony Walker, P.O. Box 66351, Mailslip #B-4, Baton Rouge, LA 70896. Written comments will be accepted through November 10, 2005.

Henry L. Whitehorn
Deputy Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Motor Carrier Safety and Hazardous Materials

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

There should be no additional costs incurred, nor savings realized, as a result of the adoption of these rules. This rule is necessitated by annual revisions of the federal regulations, which have been adopted by reference.

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

There should be no effect on revenue as a result of these rules.

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

There should be no costs or economic benefits to any person or group, as a result of these rules. The proposed rule changes simply indicate the version, by revision date, of the federal regulations previously adopted by reference. The proposed rule change would retain a requirement that Commercial Motor Vehicle drivers take 10 hours off duty in each 24-hour period, but would specify that at least 8 of these hours be consecutive.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These rules should not affect competition or employment.

Stephen J. Hymel
Undersecretary
0510#070

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue
Policy Services Division

Corporation Income Tax
(LAC 61:I.1115)

Under the authority of R.S. 47:287.73, R.S. 47:287.785, R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to repeal LAC 61.I.1115 in its entirety.

Act 401 of the 2005 Regular Session repealed R.S. 47:287.73(C)(1) which provided for a deduction from net income in the amount of dividends received from another corporation to the extent that the dividends were earned in the state and the income from which the dividends were paid were taxed under Louisiana law. LAC 61.I.1115 specifically addressed R.S. 47:287.73(C)(1) by providing an example of how to calculate the deduction. However, Act 401 now exempts dividend and interest income from Louisiana corporation income tax altogether, thus LAC 61.I.1115 is no longer necessary.

Title 61
REVENUE AND TAXATION
Part I. Taxes Collected and Administered by the Secretary of Revenue
Chapter 11. Income: Corporation Income Tax
§1115. Modifications to Deductions from Gross Income Allowed by Federal Law

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:287.73, R.S.47: 287.785 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Income Tax Section, LR 14:95 (February 1988), repromulgated by the Policy Services Division, LR 30:476 (March 2004), repealed LR 32:

Family Impact Statement

The proposed repealing of LAC 61:I.1115, regarding modifications to deductions from gross income allowed by federal law, 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, the implementation of this proposed Rule will have 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 this function.

Any interested person may submit written data, views, arguments or comments regarding this proposed Rule to Michael D. Pearson, Senior Policy Consultant, Policy Services Division, Office of Legal Affairs by mail to P.O. Box 44098, Baton Rouge, LA 70804-4098. All comments must be received no later than 4:30 p.m., Tuesday, November 29, 2005. A public hearing will be held on Wednesday, November 30, 2005, at 10 a.m. in the River Room, on the second floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA.

Cynthia Bridges
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Corporation Income Tax

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

The repeal of LAC 61:I.1115, relative to the corporation income tax, will have no impact on the agency's costs. The rule specifically addressed a statute that has been repealed making the regulation no longer necessary.

The implementation of this proposed regulation will have no impact upon any local governmental units.

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

The repeal of the rule is related to the implementation of a portion of Act 401 of the 2005 Regular Legislative Session (HB 679). Act 401, in its entirety, is estimated to reduce State General Fund revenues by $4.8 million in FY 2006-07, $4.4 million in FY 2007-08, $3.9 million in FY 2008-09, and $3.5 million in FY 2009-10. The portion of the total fiscal effect associated with the repeal of LAC 61:I.1115 resulting from the implementation of that Act is indeterminable.

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

Statutory changes related to Act 401 of the 2005 Regular Legislative Session will decrease the tax payments of affected businesses by an estimated $4.8 million in FY 2006-07. Tax reductions for affected businesses associated with this specific rule repeal resulting from the implementation of that Act are indeterminable.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule should have no effect on competition or employment

Cynthia Bridges
Secretary
0510#056

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue
Policy Services Division

Definition of Retail Sale or Sale at Retail
Fire Fighting Equipment Exclusion
(LAC 61:I.4301)

Under the authority of R.S. 47:301 and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.4301 regarding the exclusion provided under R.S. 47:301(10)(o) for equipment purchased by bona fide volunteer fire departments.

LAC 61:I.4301 pertains to the sales tax definitions provided in R.S. 47:301. Act 926 of the 1992 Regular Legislative Session created R.S. 47:301(10)(o) to exclude the purchase of fire fighting equipment by bona fide volunteer fire departments from the definition of a *Retail Sale or Sale at Retail*. This regulation is being amended to reflect the change in the statute.

Title 61
REVENUE AND TAXATION
Part I. Taxes Collected and Administered by the Secretary of Revenue
Chapter 43. Sales and Use Tax
§4301. Definitions

A. - C.*Retail Sale or Sale at Retail*.e …

f. For state and local sales or use tax purposes, R.S. 47:301(10)(o) excludes the sale or purchase of equipment used in fire fighting by bona fide volunteer fire departments from the definition of *retail sale or sale at retail*. This applies to all equipment and special apparel necessary for fighting fires including communications systems, rubber suits, boots, helmets, axes, ladders, buckets, and the furnishings of a firehouse necessary for its operation such as sleeping and cooking facilities. Items purchased solely for the entertainment or recreation of volunteer firemen and meals or services furnished to a firehouse do not qualify for exclusion.

* * *

AUTHORITY NOTE: Promulgated in Accordance with R.S. 47:301, R.S. 47:337.2, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Department of Revenue and Taxation, Sales Tax Division, LR 21:957 (September 1995), LR 22:855 (September 1996), amended by the Department of Revenue, Policy Services Division, LR 27:1703 (October 2001), LR 28:348 (February 2002), LR 28:1488 (June 2002), LR 28:2554, 2556 (December 2002), LR 29:186 (February 2003), LR 30:1306 (June 2004), LR 30:2870 (December 2004), LR 32:

Family Impact Statement

1. The Effect on the Stability of the Family. Implementation of these proposed amendments will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. Implementation of these proposed amendments will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. Implementation of these proposed amendments will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. Implementation of these proposed amendments will have no effect on family earnings and family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. Implementation of these proposed amendments will have no effect on 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. Implementation of these proposed amendments will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Raymond E. 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., Monday, November 28, 2005. A public hearing will be held on Wednesday, November 30, 2005, at 9 a.m. at the Department of Revenue Headquarters Building, 617 North Third Street, Baton Rouge, LA.

Raymond E. Tangney
Senior Policy Consultant

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Definition of Retail Sale or Sale at RetailCFire Fighting Equipment Exclusion

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

Implementation of this proposed amendment, which clarifies the exclusion provided under R.S. 47:301(10)(o) for fire fighting equipment purchased by bona fide volunteer fire departments, will have no impact on the costs of state or local agencies.

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

There should be no effect on revenue collections of state or local governmental units because state and local tax administrators are currently administering the exclusion provided under R.S. 47:301(10)(o) in accordance with this proposed amendment.

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

These proposed amendments should have no effect on costs or economic benefits to vendors or purchasers of fire fighting equipment used by bona fide volunteer fire departments because the exclusion provided by R.S. 47:301(10)(o) is currently being administered in accordance with this amendment.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These proposed amendments should have no effect on competition or employment.

Cynthia Bridges
Secretary
0510#061

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue
Policy Services Division

Demand for Payment of Taxes (LAC 61:I.4351)

Under the authority of R.S. 47:306, R.S. 47:1518, and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.4351 relative to the duty of the secretary to demand payment of the tax when a taxpayer fails to remit the tax with a return.

This proposal amends LAC 61:I.4351, which describes the procedures for filing sales tax returns and paying the taxes to the collector. Under R.S. 47:1518, the secretary is required to demand payment of any tax subject to the provisions of Subtitle II of Title 47 of the Louisiana Revised Statutes when a taxpayer files a return without total payment of the amount shown due on the return. Sales taxes are subject to the provisions of Subtitle II. Prior to Act 197 of the 2004 Regular Legislative Session, the secretary was required to issue a demand that payment of the taxes due be made within 10 days. Act 197 amended this provision to require the secretary to issue a demand that payment be made within 30 days. This proposal amends the rule to reflect the change made to R.S. 47:1518 by Act 197.

Title 61
REVENUE AND TAXATION
Part I. Taxes Collected and Administered by the Secretary of Revenue
Chapter 43. Sales and Use Tax
§4351. Returns and Payment of Tax, Penalty for Absorption of Tax

A. - A.2. …

3. The tax computed to be due by the dealer is payable at the time the return is due, and failure to do so will cause the secretary to issue a 30-day demand assessment as provided in R.S. 47:1568(B). Failure to file the returns on or before the due date, will subject the dealer to delinquency charges, loss of vendor's compensation and other charges as provided by law. See R.S. 47:1519 for information on electronic funds transfers (EFT).

A.4. - C.6. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:306, R.S. 47:337.2, R.S. 47:337.18, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Department of Revenue and Taxation, Sales Tax Division, LR 22:852 (September 1996), amended by the Department of Revenue, Sales Tax Division, LR 23:1530

(November 1997), amended by the Department of Revenue, Policy Services Division, LR 30:2868 (December 2004), LR 32:

Family Impact Statement

1. The Effect on the Stability of the Family. Implementation of these proposed amendments will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. Implementation of these proposed amendments will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. Implementation of these proposed amendments will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. Implementation of these proposed amendments will have no effect on family earnings and family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. Implementation of these proposed amendments will have no effect on 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. Implementation of these proposed amendments will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Raymond E. 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., Monday November 28, 2005. A public hearing will be held on Wednesday, November 30, 2005, at 2 p.m. at the Department of Revenue Headquarters Building, 617 North Third Street, Baton Rouge, LA.

Raymond E. Tangney
Senior Policy Consultant

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Demand for Payment of Taxes

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

There would be no implementation costs or savings to state authorities for this proposal. The proposal does not apply to local taxes.

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

There would be no effect on revenue collections of state governmental units as a result of this proposed amendment. The proposal does not apply to local taxes.

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

This proposed rule would have no costs or economic benefits to dealers in taxable goods and services because it does not change the amount of taxes payable.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed amendment would have no effect on competition or employment.

Cynthia Bridges
Secretary
0510#059

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue
Policy Services Division

Fire Fighting Equipment Purchased by
Volunteer Fire Departments (LAC 61:I.4412)

Under the authority of R.S. 47:301 and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to repeal LAC 61:I.4412, which explained the exemption provided under R.S. 47:305.12 for fire fighting equipment purchased by bona fide organized public volunteer fire departments.

Revised Statute 47:305.12 had provided an exemption for fire fighting equipment purchased by bona fide organized public volunteer fire departments. This statute was superseded by Act 926 of the 1992 Regular Legislative Session, which enacted R.S. 47:301(10)(o) to create an exclusion for purchases of fire fighting equipment by bona fide volunteer fire departments. Act 4 of the 1998 Regular Legislative Session later repealed R.S. 47:305.12 along with several other obsolete exemptions. LAC 61:I.4412 is being repealed in accordance with the repeal of the authorizing statute, R.S. 47:305.12.

Title 61
REVENUE AND TAXATION
Part I. Taxes Collected and Administered by the Secretary of Revenue
Chapter 44. Sales and Use Tax Exemptions
§4412. Fire Fighting Equipment Purchased by Bona Fide Organized Public Volunteer Fire Departments

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.12.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), repealed by the Department of Revenue, Policy Services Division, LR 32:

Family Impact Statement

1. The Effect on the Stability of the Family. Implementation of these proposed amendments will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. Implementation of these proposed amendments will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. Implementation of these proposed amendments will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. Implementation of these proposed amendments will have no effect on family earnings and family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. Implementation of these proposed amendments will have no effect on 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. Implementation of these proposed amendments will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Raymond E. 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., Monday, November 28, 2005. A public hearing will be held on Wednesday, November 30, 2005, at 9 a.m. at the Department of Revenue Headquarters Building, 617 North Third Street, Baton Rouge, LA.

Raymond E. Tangney
Senior Policy Consultant

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Fire Fighting Equipment Purchased by Volunteer Fire Departments

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

Repealing this regulation, which explains the exemption provided in R.S. 47:305.12 for fire fighting equipment purchased by bona fide volunteer fire departments, will have no impact on the costs of state or local agencies because duplicate provisions for fire fighting equipment have been provided under R.S. 47:301(10)(o). The regulation is obsolete because R.S. 47:305.12 has been repealed.

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

There should be no effect on revenue collections of state or local governmental units since state and local tax administrators are currently excluding purchases of fire fighting equipment by bona fide volunteer fire departments from tax under R.S. 47:301(10)(o), which replaced the exemption previously allowed under R.S. 47:305.12.

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

Repealing this regulation should have no effect on costs or economic benefits to vendors or purchasers of fire fighting equipment used by bona fide volunteer fire departments because an exclusion for this equipment is currently allowed under R.S. 47:301(10)(o).

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These proposed amendments should have no effect on competition or employment.

Cynthia Bridges
Secretary
0510#060

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue
Policy Services Division

Modifications to Federal Gross Income
(LAC 61:I.1114)

Under the authority of R.S. 47:287.71, R.S. 47:287.785, and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to adopt LAC 61:I.1114 relative to modifications to federal gross income.

The primary purpose of this regulation is to explain the effects of RS 47:287.738(F) as enacted during the 2005 Regular Session of the Legislature.

Title 61
REVENUE AND TAXATION
Part I. Taxes Collected and Administered by the Secretary of Revenue
Chapter 11. Income: Corporation Income Tax
§1114. Modifications of Federal Gross Income

A. In order to calculate Louisiana gross income, R.S. 47:287.71 requires modifications be made to federal gross income. R.S. 47:287.71(B)(7) provides that exclusions from Subpart F must be taken into account when computing Louisiana gross income. Included in the exclusions from gross income required by R.S. 47:287.71(B)(7) are those modifications provided for in R.S. 47:287.738(C) through (F).

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:287.71, R.S. 47:287.785, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 32:

Family Impact Statement

The proposed adoption of LAC 61:I.1114, regarding modifications to federal gross income 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. The implementation of this proposed Rule will have 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 budgets;
5. the behavior and personal responsibility of children;

6. the ability of the family or a local government to perform this function.

Any interested person may submit written data, views, arguments or comments regarding this proposed Rule to Michael D. Pearson, Senior Policy Consultant, Policy Services Division, Office of Legal Affairs by mail to P.O. Box 44098, Baton Rouge, LA 70804-4098. All comments must be submitted no later than 4:30 p.m., Tuesday, November 29, 2005. A public hearing will be held on Wednesday, November 30, 2005, at 10 a.m. in the River Room located on the seventh floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA 70802.

Cynthia Bridges
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Modifications to Federal Gross Income

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

The implementation of this proposed corporation income tax regulation, relative to modifications to federal gross income, will have no impact on the agency's costs.

The implementation of this proposed regulation will have no impact upon any local governmental units.

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

The proposed regulation implements a portion of Act 401 of the 2005 Regular Legislative Session (HB 679). Act 401, in its entirety, is estimated to reduce State General Fund revenues by $4.8 million in FY 2006-07, $4.4 million in FY 2007-08, $3.9 million in FY 2008-09, and $3.5 million in FY 2009-10. The portion of the total fiscal effect associated with this specific proposed regulation implementing that Act is indeterminable.

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

Statutory changes related to Act 401 of the 2005 Regular Legislative Session will decrease the tax payments of affected businesses by an estimated $4.8 million in FY 2006-07. Tax reductions for affected businesses associated with this specific proposed regulation implementing that Act are indeterminable.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed regulation should have no effect on competition or employment.

Cynthia Bridges	Robert E. Hosse
Secretary	Staff Director
0510#058	Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue
Policy Services Division

Segregation of Items of Gross Income
(LAC 61.I.1128)

Under the authority of R.S. 47:287.92, R.S. 47:287.93, R.S. 47:287.785, R.S. 47:1511, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to repeal LAC 61:I.1128 relative to the segregation of items of gross income.

The purpose of this regulation is to repeal the corporation income tax regulation relating to the segregation of items of gross income pursuant to Act 401 of the 2005 Regular Session. Act 401 repeals R.S. 47:287.95(E) pertaining to income from the business of making loans and the remaining portion of the regulation is merely a restatement of the statute. Thus, LAC 61.I.1128 is purposeless.

Title 61
REVENUE AND TAXATION
Part I. Taxes Collected and Administered by the Secretary of Revenue
Chapter 11. Income: Corporation Income Tax
§1128. Segregation of Items of Gross Income

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:287.92, R.S. 47:287.93, R.S. 47:287.785, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Income Tax Section, LR 14:101 (February 1988), repromulgated by the Department of Revenue, Policy Services Division, LR 30:476 (March 2004), repealed LR 32:

Family Impact Statement

The proposed repealing of LAC 61:I.1128, regarding the segregation of items of gross income 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. The implementation of this proposed Rule will have 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 budgets;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform this function.

Any interested person may submit written data, views, arguments or comments regarding this proposed Rule to Michael D. Pearson, Senior Policy Consultant, Policy Services Division, Office of Legal Affairs by mail to P.O. Box 44098, Baton Rouge, LA 70804-4098. All comments must be submitted no later than 4:30 p.m., Tuesday, November 29, 2005. A public hearing will be held on Wednesday, November 30, 2005, at 10 p.m. in the River Room located on the seventh floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA 70802.

Cynthia Bridges
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Segregation of Items of Gross Income

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

The repeal of LAC 61:I.1128, relative to the corporation income tax, will have no impact on the agency's costs. The rule addresses a statute that has been repealed. The remaining portion of the rule is a restatement of existing statute making the rule purposeless.

The implementation of this proposed regulation will have no impact upon any local governmental units.

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

The repeal of the rule is related to the implementation of a portion of Act 401 of the 2005 Regular Legislative Session (HB 679). Act 401, in its entirety, is estimated to reduce State General Fund revenues by $4.8 million in FY 2006-07, $4.4 million in FY 2007-08, $3.9 million in FY 2008-09, and $3.5 million in FY 2009-10. The portion of the total fiscal effect associated with the repeal of LAC 61:I.1128 resulting from the implementation of that Act is indeterminable.

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

Statutory changes related to Act 401 of the 2005 Regular Legislative Session will decrease the tax payments of affected businesses by an estimated $4.8 million in FY 2006-07. Tax reductions for affected businesses associated with this specific rule repeal resulting from the implementation of that Act are indeterminable.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule should have no effect on competition or employment.

Cynthia Bridges
Secretary
0510#057

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Social Services
Office of Community Services

Legal Fees in Child Protection Cases
(LAC 67:V.Chapter 57)

In accordance with the Administrative Procedure Act, R.S. 49:953(B), notice is hereby given that the Department of Social Services, Office of Community Services, continues provisions contained in the Emergency Rule to promulgate LAC 67:V, Subpart 7, Chapter 57, Billing Policies and Fee Review Procedures relative to the R.S. 46:460.21 attorney compensation system effective beginning July 1, 2005.

The legislatively convened Task Force on Legal Representation in Child Protection Cases established by House Concurrent Resolution No. 44 of the 2003 Regular Legislative Session, and, continued by House Concurrent Resolution No. 59 of the 2004 Regular Legislative Session, recommended that the Department of Social Services, Office of Community Services implement new billing policies and fee review procedures to be applied to requests for payment made by attorneys providing representation in child protection cases pursuant to R.S. 46:460.21 to be effective July 1, 2005. This recommendation was made to promote accountability through billing policies and other procedures that support attorneys' effective and efficient practice in child protection cases and to facilitate expenditures being more closely reflected in the budget year in which services are provided.

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 and deemed to have no impact on family functioning, stability or autonomy as described in R.S. 49:972.

Title 67
SOCIAL SERVICES
Part V. Community Services
Subpart 7. Payment of Legal Fees in Child Protection Cases
Chapter 57. Billing Policies and Fee Review Procedures

§5701. Purpose

A. This chapter provides billing policies and fee review procedures applicable to requests for payment of legal fees and expenses of attorneys representing children or indigent parents in Child in Need of Care (CINC) and judicial certification for adoption proceedings pursuant to R.S. 46:460.21. These policies and procedures shall be applicable to all requests for payment in proceedings occurring on or after July 1, 2005.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:460.21.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 32:

§5703. Billing policies

A. All prerequisites for payment specified in R.S. 46:460.21 shall be met. Attorneys shall comply with all minimum qualification standards specified by Louisiana Supreme Court General Administrative Rule Part J. Special Rules for Cases Involving the Protection of Children, Rule XXXIII, in order to be eligible for compensation.

B. Rates of payment shall be in accordance with Louisiana Supreme Court General Administrative Rule Part G, Section 9.

C. Upon completion of a discrete stage in CINC proceedings and final judgment in judicial certification for adoption proceedings, attorneys must submit requests for payment the earlier of 90 days of completion or final judgment or 30 days from the end of the state fiscal year (state fiscal year runs July 1-June 30). Discrete stages in proceedings include CINC proceedings through disposition, six-month reviews, and for attorneys representing children, one-year reviews post termination or surrender of parental rights when the child(ren) has not yet been permanently placed. Discrete stages may also include continued custody hearings when the attorney is appointed for that hearing only, CINC proceedings where a petition is not filed or is withdrawn prior to adjudication, CINC proceedings leading up to an Informal Adjustment Agreement, adjudication where the petition is denied, and CINC proceedings prior to disposition where an attorney appointed to act as counsel is permitted by the court to withdraw upon a finding of extenuating circumstances.

D. The detailed itemization of services must conform to the following invoicing standards:

1. Time and expenses billed shall be reasonable and necessary and based on contemporaneous record keeping. Minimum billable time increments shall be no greater than one-tenth of an hour. Each service activity shall be listed individually with its corresponding time increment. Paragraph or block billing whereby multiple discrete activities are billed within a single time increment will not be accepted for payment. Billing for bill preparation will not be accepted for payment. Travel time to and from the court that relates to mileage of less than 20 miles per trip will not

be accepted for payment. The department shall make a sample invoice available to any requesting attorney.

2. Each service entry shall include a brief, but specific description of the service rendered, the date, the persons involved (e.g. client, other parties and their attorneys, Office of Community Services worker, foster parents, CASA volunteer, judge, etc.) and the purpose of the service or event.

3. For CINC cases, service entries shall be organized in accordance with discrete stages of the proceedings.

4. Expenses billed must relate to a specific legal service performed and include the date and amount of the expense. A receipt or other appropriate documentation of the expense must be attached. Mileage in excess of 20 miles per trip shall be reimbursable in accordance with state travel regulations established by the state Division of Administration. Beginning and ending odometer readings or alternatively Mapquest documentation of mileage must be included in the itemization.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:460.21.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 32:

§5705. Fee review procedures

A. In accordance with R.S. 46:460.21:

1. an attorney requesting fees certifies:

a. he complies with all minimum qualifications as specified in the Louisiana Supreme Court General Administrative Rule Part J. Special Rules for Cases Involving the Protection of Children Rule XXXIII, for providing representation in child protection cases required by the state of Louisiana;

b. the statements contained in the fee request documents are true and correct;

c. the services and expenses billed are reasonable and necessary and consistent with effective and efficient practice in child protection cases;

d. for representation of counsel on behalf of a parent, the parent is indigent in accordance with law;

e. the attorney has received no compensation for the services or expenses described nor will he be receiving or eligible to receive such compensation from any other source;

2. the judge exercising juvenile jurisdiction determines based upon the attorney's certification, information contained within the form and supporting documentation, and his or her knowledge of the proceedings that the number of hours billed and expenses charged appear reasonable and necessary;

3. the department reviews and pays fee requests meeting statutory prerequisites, including submission of necessary forms and documentation.

B. When questions or concerns regarding requests for payment are noted, the judge and/or the department have the authority to request additional information and to seek to resolve any discrepancies with an attorney before concurring in or authorizing fees for payment.

C. Questions or concerns relative to the accuracy, validity, or compliance of an attorney's requests with R.S. 46:460.21 and the standards promulgated herein, applicable Louisiana Supreme Court General Administrative Rules, and professional practice may be referred by the judge or department to the fee review panel constituted herein. The purpose of the panel shall be to provide independence, neutrality, clarity, and administrative efficiency in the resolution of questions or concerns and to promote programmatic and fiscal accountability in the administration of the system.

D. The fee review panel shall be composed of up to eleven experienced attorneys in child welfare proceedings who commit to impartial review of referred questions or concerns in accordance with the applicable standards and overall professional practice. Panel members shall serve without compensation. For any given referral, at least three attorneys from the panel who do not practice in the court from which the referral emanates and who have no conflict of interest relative to the case or attorney that would impair their impartiality shall review and make recommendations relative to the referral. Panel members shall elect a chair and vice-chair to be responsible for receiving referrals and facilitating timely review and response. Panel members shall agree upon the method of assigning cases for review. The department shall support the fee review panel by maintaining a log of referrals and recommendations.

E. Attorneys shall be nominated to serve on the panel by the Louisiana Council of Juvenile and Family Court Judges, the Louisiana Supreme Court, the Louisiana State Bar Association, the Louisiana District Attorneys Association, the Louisiana Indigent Defender Assistance Board, the Department of Social Services, the Mental Health Advocacy Service, and each of the four law schools of the state.

F. Members of the fee panel shall review whether a referred request for payment conforms to the applicable standards and is otherwise accurate and proper in accordance with professional practice. The review may include review of other requests for payment submitted by other attorneys in the same, or similar cases, a review of court files, review of agency records, and interviews of relevant parties, including the attorney submitting the request. When the reasonableness of hours is called into question, the panel shall refer to the Resource Guidelines for Improving Court Practice in Child Abuse and Neglect Cases published by the National Council of Juvenile and Family Court Judges for guidance.

G. Panel members shall agree to maintain the confidentiality of their review and deliberations. Panel members shall be bound by the same standards of confidentiality relative to individual case record information as the court and agency.

H. Upon determining that a request for payment is not in conformity with the applicable standards or is otherwise not accurate or proper in accordance with professional practice, the review panel shall advise the attorney submitting the request of the same in writing and specify the reasons for the determination. The attorney may provide a written response within 10 days of receipt of the determination. After reviewing the attorney's response, the fee panel shall make a recommendation to the appropriate court and the Department regarding the referral and any adjustments to the fee requests it deems appropriate. There shall be no right of review or appeal to the recommendation by the panel members. A recommendation by the fee panel that a request for fees be reduced does not constitute a finding of wrongdoing.

I. The fee panel is authorized to recommend to the Supreme Court an attorney's suspension from appointment to child protection cases for a specified period of time and/or removal from the list of attorneys deemed eligible for

appointment in such cases. The fee panel may also make referrals to the Attorney Disciplinary Board as appropriate.

J. Summary information regarding the operation of the fee panel, including referrals to and recommendations of the fee panel, shall be included in the annual report to the legislature pursuant to R.S. 46:460.21.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:460.21.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 32:

Interested persons may submit comments on this proposed Rule by November 21, 2005, to Marketa Garner Gautreau, Assistant Secretary, P.O. Box 3318, Baton Rouge, LA 70821.

Ann S. Williamson
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Legal Fees in Child Protection Cases

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

There will be a cost of $238 to publish the rule in the *Louisiana Register*. In addition, there may be an increase in expenditures for the first year as a result of attorneys bringing their billing practices in line with the rule. However, this potential increase cannot be reasonably estimated and is expected to have no significant impact overall.

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

Implementation of this rule will have no effect on state or local revenue collections.

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

Attorneys and the courts will be required to produce additional paperwork resulting from more frequent attorney billings and judicial approval of those billings. The attorneys and the courts will absorb this adjustment in workload. Attorneys will benefit economically because they will receive their fees more timely.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment.

Marketa Garner Gautreau	Robert E. Hosse
Assistant Secretary	Staff Director
0510#055	Legislative Fiscal Office

NOTICE OF INTENT

Department of Treasury
Deferred Compensation Commission

Public Employees Deferred Compensation Plan and Participant Member Election Procedures
(LAC 32:VII.Chapters 1, 3, 7, 11 and 101)

Under the authority of R.S. 42:1301-1308, and §457 of the *Internal Revenue Code* of 1986 as amended, and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Department of the Treasury, Deferred Compensation Commission advertises its intent to amend the Deferred Compensation Plan, LAC 32:VII. Chapters 1, 3, 7, and 11; and to adopt procedures governing the nomination and election of participant members in Chapter 101.

The State of Louisiana Public Employees Deferred Compensation Plan (the "Plan") was adopted by the Louisiana Deferred Compensation Commission (the commission), effective September 15, 1982. The plan was established in accordance with R.S. 42:1301-1308, and §457 of the *Internal Revenue Code of 1986*, as amended, for the purpose of providing supplemental retirement income to employees and independent contractors by permitting such individuals to defer a portion of compensation to be invested and distributed in accordance with the terms of the plan. The commission hereby proposes to amend the Deferred Compensation Plan and to adopt procedures governing the nomination and election of participant members as revised August 16, 2005.

The proposed amendments have no impact on family formation, stability, and autonomy as set forth in R.S. 49:972.

Title 32
EMPLOYEE BENEFITS
Part VII. Public Employee Deferred Compensation
Subpart 1. Deferred Compensation Plan
Chapter 1. Administration
§101. Definitions

*Account Balance*C

1. the bookkeeping account maintained with respect to each participant which reflects the value of the deferred compensation credited to the participant, including:

a. the participant's total amount deferred;

b. the earnings or loss of the fund (net of fund expenses) allocable to the participant;

c. any transfers for the participant's benefit; and

d. any distribution made to the participant or the participant's beneficiary:

i. if a participant has more than one beneficiary at the time of the participant's death, then each beneficiary's share of the account balance shall be treated as a separate account for each beneficiary;

2. the *account balance* includes:

a. any account established under §505 for rollover contributions and plan-to-plan transfers made for a participant;

b. the account established for a beneficiary after a participant's death; and

c. any account or accounts established for an alternate payee (as defined in Code §414(p)(8)).

* * *

*Alternate Payee*Cthe spouse, former spouse, child or other dependent of a participant who has acquired an interest in the participant's account pursuant to a Qualified Domestic Relations Order (QDRO) pursuant to §1503. Alternate payees shall be treated as beneficiaries for all purposes under the Plan except that alternate payees shall be allowed to request a distribution of all or a portion of their account balance at any time, subject to the terms of the QDRO.

*Beneficiary*Cthe person, persons or entities designated by a participant pursuant to §301.A.5. who is entitled to receive benefits under the Plan after the death of a participant.

* * *

*Compensation*Call payments paid by the employer to an employee or independent contractor as remuneration for

services rendered, including salaries and fees, and, to the extent permitted by treasury regulations or other similar guidance, accrued vacation and sick leave pay paid within two and one-half months of participant's severance from employment so long as the employee would have been able to use the leave if employment had continued.

* * *

*Custodian*Cthe bank or trust company or other person, if any selected by the commission to hold plan assets in a custodial account in accordance with regulations pursuant to IRC §457(g) and 401(f).

* * *

*Employee*Cany individual who is employed by the employer, either as a common law employee or an independent contractor, including elected or appointed individuals providing personal services to the employer. Any *employee* who is included in a unit of employees covered by a collective bargaining agreement that does not specifically provide for participation in the plan shall be excluded.

*Includible Compensation*Can employee's actual wages in Box 1 of Form W-2 for a year for services to the employer, but subject to a maximum of $200,000 (or such higher maximum as may apply under Code §401(a)(17)) and increased (up to the dollar maximum) by any compensation reduction election under Code §§125, 132(f), 401(k), 403(b), or 457(b) [for purposes of the limitation set forth in §303.A, compensation for services performed for the employer as defined in IRC §457(e)(5)].

*Independent Contractor*Can individual (not a corporation, partnership, or other entity), who is receiving compensation for services rendered to or on behalf of the employer in accordance with a contract between such individual and the employer.

* * *

*Investment Product*Cany form of investment designated by the commission for the purpose of receiving funds under the Plan.

*IRC*Cthe *Internal Revenue Code* of 1986, as amended, or any future United States Internal Revenue law. References herein to specific section numbers shall be deemed to include treasury regulations thereunder and Internal Revenue Service guidance thereunder and to corresponding provisions of any future United States internal revenue law. All citations to sections of the Code are to such sections as they may from time to time be amended or renumbered.

* * *

*Non-Elective Employer Contribution*Cany contribution made by an employer for the participant with respect to which the participant does not have the choice to receive the contribution in cash or property. Such term may also include an employer matching contribution.

*Normal Retirement Age*C

1. - 1.a-b. …

2. if the participant is not a member of a defined benefit plan in any public retirement system, the participant's normal retirement age may not be earlier than age 65, and may not be later than age 70 1/2. A special rule shall apply to qualified police or firefighters under the plan, if any. Any qualified police or firefighter, as defined under §415(b)(2)(H)(ii)(I), who is participating in the plan may choose a normal retirement age that is not earlier than age 40 nor later than age 70 1/2;

3. …

* * *

*Severance from Employment or Severs Employment*C

1. the date the employee dies, retires, or otherwise has a severance from employment with the employer, as determined by the administrator (and taking into account guidance issued under the Code). An employee whose employment is interrupted by qualified military service under Code §414(u) shall be deemed severed from employment until such time as he or she is reemployed following the term of duty. A participant shall be deemed to have severed employment with the employer for purposes of this Plan when both parties consider the employment relationship to have terminated and neither party anticipates any future employment of the participant by the employer. In the case of a participant who is an independent contractor, severance from employment shall be deemed to have occurred when:

a. the participant's contract for services has completely expired and terminated;

b. there is no foreseeable possibility that the employer shall renew the contract or enter into a new contract for services to be performed by the participant; and

c. it is not anticipated that the participant shall become an employee of the employer.

2. - 3. …

* * *

*Unforeseeable Emergency*C

1. severe financial hardship to a participant resulting from:

a. a sudden and unexpected illness or accident of the participant or of a dependent [as defined in IRC §152(a)] of the participant;

b. loss of the participant's property due to casualty; or

c. other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the participant;

2. the need to send a participant's child to college or the desire to purchase a home shall not constitute an unforeseeable emergency. Whether a hardship constitutes an unforeseeable emergency under IRC §506 shall be determined in the sole discretion of the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1962 (October 1998), amended LR 28:1494 (June 2002), LR 32:

Chapter 3. Plan Participation, Options and Requirements

§301. Enrollment in the Plan

A. The following applies to compensation deferred under the plan.

1. A participant may not defer any compensation unless a deferral authorization providing for such deferral has been completed by the participant and is filed in good order with the administrator. Such election shall become effective no earlier than the first payroll period after the first day of the month after such new election is made, and shall continue in effect until modified, disallowed or revoked in accordance with the terms of this plan, or until the participant ceases employment with the employer. With respect to a new employee, compensation will be deferred in

the payroll period during which a participant first becomes an employee if a deferral authorization providing for such deferral is executed on or before the first day on which the participant becomes an employee. Any prior employee who was a participant in the plan and either revoked their participant agreement, or is rehired by employer, may resume participation in the plan by entering into a participation agreement, which shall take effect no earlier than the first payroll period after the first day of the month after such new participation agreement is entered into by the participant and accepted by the administrator. Any distributions being taken from this plan are to be terminated prior to the resumption of deferrals under the plan. Additionally, if distributions had not begun pursuant to a prior severance from employment, any deferred commencement date elected by such employee with respect to those prior plan assets shall be null and void.

2. In signing the participation agreement, the participant elects to participate in this plan and consents to the deferral by the employer of the amount specified in the participation agreement from the participant's gross compensation for each pay period. Such deferral shall continue in effect until modified, disallowed or revoked in accordance with the terms of this plan. Unless the election specifies a later effective date, a change in the amount of the deferral shall take effect as of the first payroll period after the first day of the next following month, or as soon as administratively practicable, if later.

3. The minimum amount of compensation deferred under a deferral authorization shall be no less than $20 each month; provided, however, that such minimum deferral shall not apply to a participant whose deferral authorization (or similar form) in effect on October 1, 1984, permitted a smaller deferral, or to a participant who elects to defer not less than 7.5 percent of compensation (voluntary and/or involuntary contributions) in lieu of Social Security coverage (§11332 of the Social Security Act and IRC §3121). The employer retains the right to establish minimum deferral amounts per pay period and to limit the number and/or timing of enrollments into the plan in the participation agreement.

4. Notwithstanding Paragraph 1 above, to the extent permitted by applicable law, the administrator may establish procedures whereby each employee becomes a participant in the plan (automatic enrollment) and, as a term or condition of employment, elects to participate in the plan and consents to the deferral by the employer of a specified amount for any payroll period for which a participation agreement is not in effect. In the event such procedures are in place, a participant may elect to defer a different amount of compensation per payroll period, including zero, by entering into a participation agreement.

5. Investment Selection and Beneficiary Designation

a. The participation election, or such other form as approved by the administrator, shall include the employee's designation of investment funds. Any such election shall remain in effect until a new election is filed. A change in the investment direction shall take effect as of the date provided by the administrator on a uniform basis for all employees.

b. Each participant shall initially designate in the participation agreement a beneficiary or beneficiaries to receive any amounts, which may be distributed in the event of the death of the participant prior to the complete distribution of benefits. A participant may change the designation of beneficiaries at any time by filing with the commission a written notice on a form approved by the commission. If no such designation is in effect at the time of participant's death, or if the designated beneficiary does not survive the participant by 30 days, his beneficiary shall be his surviving spouse, if any, and then his estate.

6. Information Provided by the Participant. Each employee enrolling in the Plan should provide to the administrator at the time of initial enrollment, and later if there are any changes, any information necessary or advisable, in the sole discretion of the administrator, for the administrator to administer the plan, including, without limitation, whether the employee is a participant in any other eligible plan under Code §457(b).

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1964 (October 1998), amended LR 28:1495 (June 2002), LR 32:

§303. Deferral Limitations

A. Except as provided in §305.A.1-2.a-b, the maximum that may be deferred under the plan for any taxable year of a participant shall not exceed the lesser of:

1. the applicable dollar amount in effect for the year, as adjusted for the calendar year in accordance with IRC §457(e)(15). [After 2006, the dollar amount is adjusted for cost-of-living under Code §415(d)]; or

2. one hundred percent of the participant's includible compensation, each reduced by any amount specified in Subsection B of this §303 that taxable year. However, in no event can the deferred amount be more than the participant's compensation for such years unless the employer is making nonelective employer contributions.

a. The annual deferral amount does not include any rollover amounts received by the plan under treasury regulation §1.457-10(e).

B. - C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1964 (October 1998), amended LR 28:1496 (June 2002), LR 32:.

§305. Limited Catch-up

A.1. - 2.b. …

B. If a participant is not a member of a defined benefit plan in any public retirement system, normal retirement age may not be earlier than age 65, and may not be later than age 70 1/2.

C. Pre-2002 Coordination Years

1. For purposes of this §305, *Contributions to Pre-2002 Coordination Plans* means any employer contribution, salary reduction or elective contribution under:

a. any other eligible Code §457(b) plan; or

b. a salary reduction or elective contribution under any Code §401(k) qualified cash or deferred arrangement;

c. Code §402(h)(1)(B) simplified employee pension (SARSEP);

d. Code §403(b) annuity contract; and

e. Code §408(p) simple retirement account; or

f. any plan for which a deduction is allowed because of a contribution to an organization described in

Code §501(c)(18), including plans, arrangements or accounts maintained by the employer or any employer for whom the participant performed services.

2. Contributions for any calendar year are only taken into account for purposes of Section 3.05 to the extent that the total of such contributions does not exceed the aggregate limit referred to in Code §457(b)(2) for that year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1965 (October 1998), amended LR 28:1496 (June 2002), LR 32:

§307. Participant Modification of Deferral

A. The participant shall be entitled to modify the amount (or percentage) of deferred compensation with respect to compensation payable no earlier than the payroll period after the first day of the next following month, or as soon as administratively practicable, if later, provided such modification is entered into by the participant and accepted by the commission. Notwithstanding the above, if a negative election procedure has been implemented pursuant to §301.A.4, a participant may enter into or modify a participation agreement at any time to provide for no deferral.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1965 (October 1998), amended LR 28:1496 (June 2002), LR 32:.

§309. Employer Modification of Deferral

A. - A.1-6. …

B. To the extent permitted by, and in accordance with, the *Internal Revenue Code*, the employer or administrator may distribute the amount of a participant's deferral in excess of the distribution limitations stated in §§301, 303, 305, 307 and 309 notwithstanding the limitations of §701.A; provided, however, that the employer and the commission shall have no liability to any participant or beneficiary with respect to the exercise of, or the failure to exercise, the authority provided in this §309.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1965 (October 1998), amended LR 28:1496 (June 2002), LR 32:

§313. Re-Enrollment

A. A participant who revokes the participation agreement as set forth in §311.A may execute a new participation agreement to defer compensation payable no earlier than the payroll period after the first day of the next following month, or as soon as administratively practicable, if later, provided such new participation agreement is executed by the participant and accepted by the commission.

B. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1965 (October 1998), amended LR 28:1496 (June 2002), LR 32:

§319. Qualified Military Service

A. …

B. Protection of Persons Who Serve in a Uniformed Service. An employee whose employment is interrupted by qualified military service under Code §414(u) may elect to make additional annual deferrals upon resumption of employment with the employer equal to the maximum annual deferrals that the employee could have elected during that period if the employee's employment with the employer had continued (at the same level of compensation) without the interruption or leave, reduced by the annual deferrals, if any, actually made for the employee during the period of the interruption or leave. This right applies for five years following the resumption of employment (or, if sooner, for a period equal to three times the period of the interruption or leave).

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1966 (October 1998), amended LR 32:

§321. Correction of Excess Deferrals

A. If the total amount deferred on behalf of a participant for any calendar year exceeds the limitations described above, or the total amount deferred on behalf of a participant for any calendar year exceeds the limitations described above when combined with other amounts deferred by the participant under another eligible deferred compensation plan under Code §457(b) for which the participant provides information that is accepted by the administrator, then the total amount deferred, to the extent in excess of the applicable limitation (adjusted for any income or loss in value, if any, allocable thereto), shall be distributed to the participant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 32:

Chapter 7. Distributions

§701. Conditions for Distributions

A. - A.4. …

5. the calendar year in which an in-service participant attains age 70 1/2, but only if such participant revokes all deferrals of compensation into the plan prior to beginning distributions.

B. Payments from a Participant's Rollover Account(s). If a participant has a separate account attributable to rollover contributions to the plan, the participant may at any time elect to receive a distribution of all or any portion of the amount held in the rollover account(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1967 (October 1998), amended LR 28:1497 (June 2002), LR 32:

§703. Severance from Employment

A. …

B. Upon notice to participants, and subject to §§701.A., 703.B, and 721.A, the administrator may establish procedures under which a participant whose total §457 Deferred Compensation account balance is less than an amount specified by the administrator (not in excess of $1,000 or other applicable limit under the *Internal Revenue Code*) may receive a lump sum distribution on the first regular distribution commencement date (as the employer or administrator may establish from time to time) following the participant's severance from employment, notwithstanding any election made by the participant pursuant to §721.A.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1967 (October 1998), amended LR 28:1497 (June 2002), LR 32:

§705. In-Service Distributions

A. - B. …

1. the portion of the total amount payable to the participant under the plan does not exceed an amount specified from time to time by the commission (not in excess of $1,000 or other applicable limit under the *Internal Revenue Code*);

2. - 3 …

C. Participants in the plan providing FICA replacement retirement benefits pursuant to regulations under Code §3121(b)(7)(F) are not eligible for In-Service *De Minimus* distributions.

D. Purchase of Defined Benefit Plan Service Credit

1. If a participant is also a participant in a defined benefit governmental plan [as defined in IRC §414(d)], such participant may request the commission to transfer amounts from his or her account for:

a. the purchase of permissive service credit [as defined in IRC §415(n)(3)(A)] under such plan; or

b. a repayment to which IRC §415 does not apply by reason of IRC §415(k)(3).

2. Such transfer requests shall be granted in the sole discretion of the commission, and if granted, shall be made directly to the defined benefit governmental plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1967 (October 1998), amended LR 28:1497 (June 2002), LR 32:

§707. Deferred Commencement Date at Separation from Service

A. …

B. If the participant is an independent contractor:

1. in no event shall distributions commence prior to the termination date on which all such participant's contracts to provide services to or on behalf of the employer expire; and

2. in no event shall a distribution payable to such participant pursuant to §703.A commence if, prior to the conclusion of the one-month period following cessation of services under contract, the participant performs services for the employer as an employee or independent contractor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1967 (October 1998), amended LR 28:1498 (June 2002), LR 32:

§709. Unforeseeable Emergency

A. - A.4. …

B. The following events are not considered unforeseeable emergencies under the plan:

1. enrollment of a child in college;

2. purchase of a house;

3. purchase or repair of an automobile;

4. repayment of loans;

5. payment of income taxes, back taxes, or fines associated with back taxes;

6. unpaid expenses including rent, utility bills, mortgage payments, or medical bills;

7. marital separation or divorce; or

8. bankruptcy (except when bankruptcy resulted directly and solely from illness or casualty loss).

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1968 (October 1998), amended LR 28:1498 (June 2002), LR 32:

§711. Death Benefits

A. …

B. If there are two or more beneficiaries, the provisions of this §711 and of §717.A shall be applied to each beneficiary separately with respect to each beneficiary's share in the participant's account.

C. Death of Participant before Participant's Required Beginning Date. If the participant dies before the required beginning date, the participant's entire interest will be distributed, or begin to be distributed, no later than as follows.

1. If the participant's surviving spouse is the participant's sole designated beneficiary, then, except as provided in this §711, distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the participant died, or by December 31 of the calendar year in which the participant would have attained age 70 1/2, if later.

2. If the participant's surviving spouse is not the participant's sole designated beneficiary, then, unless the beneficiary elects the five-year rule, distributions to the designated beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the participant died.

3. If there is no designated beneficiary as of September 30 of the year following the year of the participant's death, the participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the participant's death.

4. If the participant's surviving spouse is the participant's sole designated beneficiary and the surviving spouse dies after the participant but before distributions to the surviving spouse begin, this Subsection C will apply as if the surviving spouse were the participant.

D. Death On or After Participant's Required Beginning Date

1. Participant Survived by Designated Beneficiary. If the participant dies on or after the participant's required beginning date and there is a designated beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the participant's death is the quotient obtained by dividing the participant's account balance by the longer of the remaining life expectancy of the participant or the remaining life expectancy of the participant's designated beneficiary, determined as follows.

a. The participant's remaining life expectancy is calculated using the age of the participant in the year of death, reduced by one for each subsequent year.

b. If the participant's surviving spouse is the participant's sole designated beneficiary, the remaining life expectancy of the surviving spouse is calculated for each distribution calendar year after the year of the participant's death using the surviving spouse's age as of the spouse's birthday in that year. For distribution calendar years after the

year of the surviving spouse's death, the remaining life expectancy of the surviving spouse is calculated using the age of the surviving spouse as of the spouse's birthday in the calendar year of the spouse's death, reduced by one for each subsequent calendar year.

c. If the participant's surviving spouse is not the participant's sole designated beneficiary, the designated beneficiary's remaining life expectancy is calculated using the age of the beneficiary in the year following the year of the participant's death, reduced by one for each subsequent year.

2. No Designated Beneficiary. If the participant dies on or after the date distributions begin and there is no designated beneficiary as of September 30 of the year after the year of the participant's death, the minimum amount that will be distributed for each distribution calendar year after the year of the participant's death is the quotient obtained by dividing the participant's account balance by the participant's remaining life expectancy calculated using the age of the participant in the year of death, reduced by one for each subsequent year.

E. Under no circumstances shall the commission be liable to the beneficiary for the amount of any payment made in the name of the participant before the commission receives satisfactory proof of the participant's death.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1968 (October 1998), amended LR 28:1498 (June 2002), LR 32:

§713. Payment Options

A. A participant's or beneficiary's election of a payment option must be made at least 30 days prior to the date that the payment of benefits is to commence. If a timely election of a payment option is not made, benefits shall be paid in accordance with §715.A. Subject to applicable law and the other provisions of this Plan, distributions may be made in accordance with one of the following payment options:

1. a single lump-sum payment;

2. installment payments for a period of years (payable on a monthly, quarterly, semiannual, or annual basis), which extends no longer than the life expectancy of the participant or beneficiary as permitted under the requirements of IRC §401(a)(9) using the Uniform Lifetime Table at regulation. §1.041(a)(9)-9, A-2 for the participant's age on the participant's birthday for that year. If the participant's age is less than age 70, the distribution period is 27.4 plus the number of years that the participant's age is less than age 70. The account balance for this calculation (other than the final installment payment) is the account balance as of the end of the year prior to the year for which the distribution is being calculated;

3. - 6. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1968 (October 1998), amended LR 28:1498 (June 2002), LR 32:

§715. Default Distribution Option

A. In the absence of an effective election by the participant, beneficiary or other payee, as applicable, as to the commencement and/or form of benefits, distributions shall be made in accordance with the applicable requirements of IRC §§ 401(a)(9) and 457(d), and proposed or final treasury regulations thereunder. In the absence of an effective election by the beneficiary or alternate payee as to the commencement and/or form of benefits, distribution shall be made in a lump sum.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1969 (October 1998), amended LR 28:1499 (June 2002), LR 32:

§723. Eligible Rollover Distributions

A. …

B. Definitions. For purposes of this §723, the following definitions shall apply:

*Direct Rollover*Ca payment by the plan to the eligible retirement plan specified by the distributee.

*Distributee*Cincludes an employee or former employee, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a Qualified Domestic Relations Order, as defined in IRC §414(p), are distributees with regard to the interest of the spouse or former spouse.

*Eligible Retirement Plan*Can eligible retirement plan is an individual retirement account described in IRC §408(a), an individual retirement annuity described in IRC §408(b), an annuity plan described in IRC §403(a) that accepts the distributee's eligible rollover distribution, a qualified trust described in IRC §401(a) (including §401(k)) that accepts the distributee's eligible rollover distribution, a tax-sheltered annuity described in IRC §403(b) that accepts the distributee's eligible rollover distribution, or another eligible deferred compensation plan described in IRC §457(b) that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity.

*Eligible Rollover Distribution*Cany distribution of all or any portion of the balance to the credit of the distribute, except that an eligible rollover distribution does not include any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies and the distributee's designated beneficiary, or for:

a. a specified period of 10 years or more;

b. any distribution to the extent such distribution is required under IRC §401(a)(9);

c. any distribution that is a deemed distribution under the provisions of IRC §72(p);

d. the portion of any distribution that is not includable in gross income; and

e. any hardship distribution or distribution on account of unforeseeable emergency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1969 (October 1998), amended LR 28:1499 (June 2002), LR 32:

§1103. Maximum Loan Amount

A. -A.1.b. …

2. one-half of the participant's account balance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1970 (October 1998), amended LR 28:1500 (June 2002), LR 32:

§1107. Loan Terms and Conditions

A. - A.3. …

4. The participant shall be required, as a condition to receiving a loan, to enter into an irrevocable agreement authorizing the employer to make payroll deductions from his or her compensation as long as the participant is an employee and to transfer such payroll deduction amounts to the trustee in payment of such loan plus interest. Repayments of a loan shall be made by payroll deduction of equal amounts (comprised of both principal and interest) from each paycheck, with the first such deduction to be made as soon as practicable after the loan funds are disbursed; provided, however, a participant may prepay the entire outstanding balance of his loan at any time; and provided, further, that if any payroll deductions cannot be made in full because a participant is on an unpaid leave of absence or is no longer employed by a participating employer (that has consented to make payroll deductions for this purpose) or the participant's paycheck is insufficient for any other reason, the participant shall pay directly to the Plan the full amount that would have been deducted from the participant's paycheck, with such payment to be made by the last business day of the calendar month in which the amount would have been deducted.

5. - 7. …

8. Security for Loan. Any loan to a participant under the Plan shall be secured by the pledge of the portion of the participant's interest in the Plan invested in such loan.

9. Default

a. In the event that a participant fails to make a loan payment under this Article IV by the end of the calendar quarter following the calendar quarter in which such payment was due, a default on the loan shall occur. In the event of such default:

i. all remaining payments on the loan shall be immediately due and payable;

ii. interest will continue to accrue on the unpaid balance until the loan is repaid in full; and

iii. the participant shall be permanently ineligible for any future loans from the plan unless, in the administrator's sole discretion, the participant is deemed to be credit worthy and agrees to repay the loan through payroll deduction.

b. In the case of any default on a loan to a participant, the administrator shall apply the portion of the participant's interest in the plan held as security for the loan in satisfaction of the loan on the date of severance from employment. In addition, the administrator shall take any legal action it shall consider necessary or appropriate to enforce collection of the unpaid loan, with the costs of any legal proceeding or collection to be charged to the account balance of the participant.

c. Notwithstanding anything elsewhere in the plan to the contrary, in the event a loan is outstanding hereunder on the date of a participant's death, his or her estate shall be his or her beneficiary as to the portion of his or her interest in the plan invested in such loan (with the beneficiary or beneficiaries as to the remainder of his or her interest in the plan to be determined in accordance with otherwise applicable provisions of the plan).

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 28:1500 (June 2002), amended LR 32:

Subpart 3. Nominations and Elections

Chapter 101. Nomination and Election of Participant Members

§10101. Election Procedures

A. The Louisiana Deferred Compensation Commission (the "commission") developed the following procedures for the election of participant members to the commission, revised August 16, 2005. These procedures shall remain in effect until amended.

1. On or before the first day of January of each year, the commission shall appoint a nominating committee consisting of three to five participants, no two of whom are employed by the same department of state government and none of whom are members of the commission. Public notice of the appointment of the nominating committee shall be given in the same manner as that required for giving public notice of meetings of the commission. All participants shall be notified by means of a notice mailed to them by either the fourth quarter statements or via direct mail that an election will be held, and the method by which the election will be held.

2. The nominating committee shall submit to the commission the name of at least one participant for each vacancy that has occurred and the name of at least one participant for each term that is about to expire. Only participants who have been participants for more than two years prior to the date on which the term begins may be nominated.

3. Upon the receipt of the report of the nominating committee, the commission shall notify personnel officers of the receipt of the said report and shall request personnel officers to notify participants (by posting a notice in appropriate places or by other means) that the said report has been received and that additional nominations may be made by petition.

4. A participant may be nominated by petition if the petition contains the signatures of 12 participants and is received by the commission chairman or his/her designee prior to the deadline set forth in the notice supplied to personnel officers pursuant to Paragraph 3 above. Only participants who have been participants for more than two years prior to the date on which the term begins may be nominated by petition. Petitioning participants' signatures must be accompanied by a statement signed by the nominee in which the nominee expresses his or her willingness to serve if elected.

5. In the event two or more participants are nominated for a position on the commission, the commission chairman shall conduct a drawing to determine the order in which candidates' names will appear on the ballot. All nominees for a position shall be invited by the chairman to attend the drawing. Each ballot shall contain, in addition to the name of the nominee(s), a statement containing no more than 35 words, which statement shall be prepared by the nominee and shall contain biographical information and/or a statement concerning the nominee's position on one or more

issues pertinent to the deferred compensation program. If and when the commission determines that the use of photographs of the nominees on the ballots will be feasible, the chairman shall provide all nominees with the opportunity to submit suitable photographs of themselves for use in preparation of the ballots. The submission of such a photograph shall be optional for each nominee.

6. A participant shall be eligible to participate in an election if that participant receives a first quarter statement of his account with the Louisiana Deferred Compensation Plan during the year in which the election is held. The commission may elect to distribute the ballots to the eligible participants via the first quarter statement, or via direct mail. The commission may also contract through a third party vendor to provide vote collection services, including electronic votes utilizing an Interactive Voice Response ("IVR") telephone voting system, electronic votes utilizing the Internet and also paper ballot votes. Election services include the production of election materials, mailing services, barcode system services, election ballot processing and counting using automated scanning, and other related services. If the voting process is sent via the statement or mail, each ballot shall be accompanied by a ballot envelope (clearly marked with instructions that the completed ballot shall be placed therein and the envelope sealed), a mailing envelope on which is printed the name and address of the commission's designated return address, and a signature slip.

7. The commission may require that the participant's signature appear on the signature slip together with the last four digits of the participant's Social Security Number. The signature slip and the ballot envelope shall be placed in the mailing envelope. The signature slip must not be placed in the ballot envelope. The mailing envelope shall be mailed or delivered to the commission at the address printed on the mailing envelope.

8. The commission or the commission chairman, if authorized by the commission, shall appoint a ballot counting committee and the commission chairman shall invite all nominees to be present for the ballot counting.

9. The deadline for return of ballots and the date on which ballots will be counted shall both be fixed by the commission or by the commission chairman, if authorized by the commission.

10. Prior to counting the ballots, the ballot counting committee shall make such verification as is deemed appropriate. The committee shall verify that each ballot has been submitted correctly. Any ballot not submitted correctly will be deemed invalid. If a third party vendor is contracted for vote collection services, the ballot counting committee shall examine and verify the database representing the final vote tally.

11. No nominee shall be required to receive a majority of the votes in order to be elected. The nominee receiving a plurality of the votes cast shall be declared elected. In the event two or more nominees receive the same number of votes, the winner shall be chosen by the toss of a coin.

12. Upon completion of its work, the ballot counting committee shall submit a written report to the chairman concerning the result of the election. The chairman shall make public the result of the election at the next commission meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 32:

Family Impact Statement

1. The Effect on the Stability of the Family. The proposed Rule will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. The proposed Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. The proposed Rule will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. The proposed Rule will have no effect on family earnings and family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. The proposed Rule will have no effect on 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. No adverse effect on the ability of the family or a local government to perform the function as contained in the proposed Rule.

Interested persons may submit comments to Joseph A. Dionisi, Administrator, Louisiana Deferred Compensation Plan, 2237 South Acadian Thruway, Suite 702, Baton Rouge, LA 70808. Telephone (225) 926-8082, fax (225) 926-4447 until 4:30 p.m. on November 29, 2005.

A public hearing will be held on November 29, 2005 at 2 p.m. at the above address. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing at said hearing. Individuals with disabilities who require special services should contact the Louisiana Public Employees Deferred Compensation Plan office prior to the hearing.

Emery J. Bares
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Public Employees Deferred Compensation Plan and Participant Member Election Procedures

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

No anticipated costs to state and local governmental units.

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

No anticipated effect on revenue collections.

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

No anticipated costs to state. Amended Plan Document would ensure compliance with federal statutes to maintain eligible state deferred compensation plan.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No anticipated effect on competition and employment.

Emrey J. Bares	Robert E. Hosse
Chairman	Staff Director
0510#116	Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Removal of Abandoned Crab Traps
(LAC 76:VII.367)

The Wildlife and Fisheries Commission does hereby give notice of its intent to amend a Rule, LAC 76:VII.367, which provides for an abandoned crab trap removal program. Authority to establish these regulations is vested in the commission by R.S. 56:332(N). Said Rule is attached and made a part of this Notice of Intent.

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 filing of the Notice Of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Title 76
WILDLIFE AND FISHERIES
Part VII. Fish and Other Aquatic Life
Chapter 3. Saltwater Sport and Commercial Fishery
§367. Removal of Abandoned Crab Traps

A. The use of crab traps shall be prohibited from 6 a.m., March 4, 2006 through 6 a.m. March 13, 2006 within that portion of Terrebonne Parish as described below.

1. From a point originating from the intersection of the eastern shoreline of Bayou Dularge and the northern shoreline of Falgout Canal; thence westward along the northern shoreline of Falgout Canal to Lake Decade; thence westward and then southward along the northern and western shoreline of Lake Decade to the mouth of Bayou Decade; thence southwesterly along the northern shoreline of Bayou Decade to Lost Lake; thence westward along the northern shoreline of Lost Lake to the mouth of an unnamed bayou originating from Big Carencro Bayou; thence northward along the eastern shoreline of the unnamed bayou to Big Carencro Bayou; thence northward and then westward along the northern shoreline of Big Carencro Bayou to the eastern shoreline of Four League Bay; thence southwesterly to the northernmost point of land on Pointe Au Fer Island at Mosquito Pass; thence southward along the eastern shoreline of Pointe Au Fer Island to the mouth of Oyster Bayou; thence southward along the western shoreline of Oyster Bayou to a point along the inside-outside shrimp line as defined in R.S. 56:495; thence eastward along the inside-outside shrimp line to the eastern shoreline of Bayou Grand Caillou; thence northward to the first red channel marker (No. 10) in Bayou Grand Caillou; thence northward along the red channel markers in Bayou Grand Caillou to channel marker No. 40; thence due eastward to the eastern shoreline of Bayou Grand Caillou; thence northward along the eastern shoreline of Bayou Grand Caillou to the Tennessee Gas Pipeline canal; thence westward along the northern shoreline of the Tennessee Gas Pipeline canal to Bayou Dularge; thence northward along the eastern shoreline of Bayou Dularge and terminating at the intersection of Falgout Canal and Bayou Dularge.

B. All crab traps remaining in the closed area during the specified period shall be considered abandoned. These trap removal regulations do not provide authorization for access to private property; authorization to access private property can only be provided by individual landowners. Crab traps may be removed only between one-half hour before sunrise to one-half hour after sunset. Anyone is authorized to remove these abandoned crab traps within the closed area. No person removing crab traps from the designated closed area shall possess these traps outside of the closed area. The Wildlife and Fisheries Commission authorizes the Secretary of the Department of Wildlife and Fisheries to designate disposal sites.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:332(N).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, and Wildlife and Fisheries Commission LR 30:101 (January 2004), amended LR 31:108 (January 2005), LR 32:

Family Impact Statement

In accordance with Act No. 1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection 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 written comments relative to the proposed Rule to Vincent Guillory, Marine Fisheries Biologist Manager, Marine Fisheries Division, P.O. Box 189, Bourg, LA 70343, prior to Tuesday, December 6, 2005.

Wayne J. Sagrera
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Removal of Abandoned Crab Traps

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

Total cost to implement the proposed rule to the state, aside from staff time, is estimated to be $6,250. No local governmental implementation costs are anticipated.

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

No effect on revenue collections of state or local governmental units is anticipated.

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

The proposed rule would prohibit the use of crab traps in one specified fishing area during a designated period in March 2006. Crab traps fishermen who have traps within the proposed area closure will experience lost fishing time and incur additional costs of having to temporarily remove their traps from this area. They may choose to move their traps to adjacent open fishing areas or choose to remove their traps from the fishery for the duration of the closure (9 days). Local seafood dealers and processors may experience a decrease in availability of fresh crabs during the closure. The overall

impact is expected to be slight, since the closure occurs in the lowest harvest time of the year and most fishermen who fish during this period are anticipated to move their traps to adjacent waters and continue to fish.

The crab resource will not be lost or harmed in any way and will be available for harvest when the closed area is reopened. Mortality or injuries to crabs and bycatch will be reduced with the removal of abandoned crab traps. Recreational saltwater anglers, commercial fishermen and individuals who operate vessels within the proposed area closure will benefit from the removal of abandoned crab traps, since encounters with abandoned traps often result in lost fishing time and damage to the vessel's lower unit and/or fishing gear.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Effects on competition and employment are expected to be negligible, sinc6e adjacent waters will remain open for crab harvest and crabbers who fish during this time period are expected to relocate their traps.

Janice A. Lansing
Undersecretary
0510#048

Robert E. Hosse
Staff Director
Legislative Fiscal Office

Administrative Code Update

CUMULATIVE: JANUARY – SEPTEMBER 2005

LAC Title	Part.Section	Effect	Location LR 31 Month	Page
4	III.701-715	Adopted	Mar.	644
	V.2101	Amended	Jan.	56
	VII.1101,1245	Amended	June	1330
	VII.1105,1237,1275	Repealed	June	1330
7	I.101	Amended	Jan.	26
	V.513	Amended	June	1227
	XIII.123, 141, 143	Amended	July	1510
	XIII.125,143	Amended	Feb.	419
	XIII.139,141	Amended	Jan.	35
	XXI.111	Amended	Feb.	419
	XXI.1105,1303	Adopted	Aug.	1971
	XXI.2301,2305,2311,2313,2321	Amended	Sept.	2210
	XXV.101,119,121	Amended	Jan.	26
	XXIX.107,109,113-117,123	Amended	May	1053
	XXXIII.133	Amended	May	1055
	XXXV.301-347	Adopted	Jan.	27
	XLI.101	Repromulgated	Apr.	898
13	III.101-117	Amended	Apr.	902
	III.131-147	Adopted	Apr.	902
	V.201-215	Adopted	Feb.	420
22	I.103	Amended	July	1600
	I.103	Amended	Aug.	2032
	I.105	Adopted	May	1097
	I.209,301,309,311	Repealed	Apr.	937
	I.306,307,310,319,327,331	Repealed	Apr.	937
	I.317,329	Amended	May	1097
	I.339,2103,2105	Amended	May	1099
	I.339,2103,2105	Repromulgated	June	1343
	I.365	Amended	May	1099
	I.367	Repealed	May	1097
	III.4701,4703,4715,4725	Amended	Aug.	2007
	XIII.301	Amended	Aug.	2009
	XIII.503	Amended	June	1330
25	III.103	Amended	May	1055
	III.105	Amended	May	1057
	IX.101,301-307	Amended	Aug.	1979
	IX.308,309,310	Adopted	Aug.	1979
	IX.312	Repromulgated	Aug.	1979
	IX.313-321,329-333,500-507	Amended	Aug.	1979
	IX.900-919	Repromulgated	Aug.	1979
28	I.701,912	Repealed	July	1567
	I.901,906,930	Amended	Mar.	638
	I.903	Amended	Feb.	425
	I.903	Amended	Mar.	636
	I.903	Amended	July	1564
	I.903	Amended	July	1567
	I.903	Amended	Aug.	1971
	I.907,925	Repealed	Mar.	638
	I.919	Repealed	Apr.	917
	I.1303	Amended	June	1319
	I.1303,1705,1709	Amended	June	1319
	IV.301,501,504,505,509,703,803	Amended	Jan.	36
	IV.501,506,2103	Amended	May	1060
	IV.701,703,1107	Amended	Sept.	2213
	IV.1903,2107,2301-2313	Amended	Jan.	36
	VI.107,311	Amended	Mar.	639
	VI.315	Amended	Sept.	2216
	XXXVII.2503	Amended	Mar.	638
	XXXIX.503,905,911	Amended	Aug.	1973
	XXXIX.1101,1301,1501	Amended	Aug.	1973
	XLIX.335,337,343,737	Amended	Aug.	1972
	LVII.301,501-511,521-535	Amended	Apr.	915
	LXXIX.2511	Amended	Mar.	636
	LXXXIII.301,501,517,519	Amended	July	1512
	LXXXIII.703,4307,4310	Amended	Apr.	912
28	LXXXIII.901	Repealed	July	1512
	LXXXIII.1301,1501-1505	Amended	July	1512
	LXXXIII.1401-1407	Adopted	July	1512
	LXXXIII.1701-1707,1901,1903	Amended	July	1512
	LXXXIII.2101,2301,3107-3111	Amended	July	1512
	LXXXIII.3501,4310,4313	Amended	Feb.	423
	LXXXIII.3905	Amended	July	1512
	LXXXIII.4303,4313	Amended	June	1256
	LXXXIII.4310,4311,4313	Amended	Mar.	633
	XCVII.305,307,311,501	Amended	Apr.	913
	CVII.Chapters 1-13	Adopted	July	1517
	CXI.Chapters 1-35	Adopted	July	1526
	CXV.Chapters 1-37	Adopted	June	1257
	CXV.2319	Adopted	Sept.	2211
32	I.1501-1515	Adopted	Aug.	2009
	III.301,317	Amended	Feb.	441
	V.301,317	Amended	Feb.	439
	IX.301,317	Amended	Feb.	440
33	I.601-609	Adopted	June	1321
	I.3931	Amended	Apr.	918
	I.4503,4705	Amended	July	1570
	III.501	Amended	May	1063
	III.507,1509,2305	Amended	May	1061
	III.507	Amended	July	1567
	III.1432	Amended	Mar.	639
	III.1115,1117	Repealed	July	1570
	III.2117	Amended	May	1062
	III.2160,3003,5116,5122	Amended	July	1567
	III.5151	Amended	July	1570
	III.5311,5901	Amended	July	1567
	V.529,1109,1705,1907,1917	Amended	July	1570
	V.3023,3711,3719,4037,4901	Amended	July	1570
	V.3099	Amended	Apr.	918
	V.10107,10121	Amended	Mar.	693
	V.Chapters 301-304	Amended	Mar.	675
	VI.1101-1119	Adopted	Sept.	2216
	VII.115,721	Amended	July	1570
	VII.10505,10509,10519	Amended	June	1322
	VII.10521	Adopted	June	1322
	VII.10535,10537	Amended	June	1322
	IX.1123	Amended	Apr.	917
	IX.1123	Amended	Apr.	920
	IX.2301,4901,4903	Amended	Apr.	918
	IX.2501,2707,3113	Amended	Feb.	425
	IX.2505	Amended	July	1570
	IX.2511	Amended	June	1321
	IX.4701-4709,4719	Amended	Feb.	425
	IX.4731-4747	Adopted	Feb.	425
	IX.5911	Amended	Feb.	425
	IX.7103	Repealed	Feb.	425
	XI.103	Repromulgated	Aug.	2002
	XI.103,301-305,501-509	Amended	May	1065
	XI.103,1121,1139	Amended	July	1570
	XI.599	Adopted	May	1065
	XI.701-707,901-907,1301,1303	Amended	May	1065
	XI.1307,1311,1313	Amended	May	1065
	XV.102	Amended	May	1064
	XV.102,113,325,326,351,399	Amended	Jan.	44
	XV.325	Amended	July	1578
	XV.361	Adopted	Jan.	44
	XV.399	Amended	July	1578
	XV.421,499,575,588,756,757	Amended	Jan.	44
	XV.613,615,915,917	Adopted	May	1064
	XV.703,704,763	Amended	May	1060
	XV.1503,1505,2017	Amended	Jan.	44
	XV.1517	Amended	Apr.	918
34	III.101-113,127,129	Amended	May	1076

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34	III.300,301-307	Repealed	May	1076
	V.105	Adopted	Mar.	640
35	I.302	Adopted	May	1058
37	I.101,301-313,501,701-705	Amended	Jan.	56
	I.2501,2701,2901,3101-3121	Amended	Jan.	56
	I.3201,3301,5101	Amended	Jan.	56
	XI.717,723	Amended	May	1096
	XIII.11101-1119	Adopted	Sept.	2259
	XIII.1901-1905,1909-1913	Amended	Feb.	461
	XIII.1915,1917,1937,1961	Adopted	Feb.	461
	XIII.1919,1921,1925-1935	Amended	Feb.	461
	XIII.1923,1941,1947,1951	Repromulgated	Feb.	461
	XIII.1939,1943-1945,1949	Amended	Feb.	461
	XIII.1953-1959	Amended	Feb.	461
	XIII.Chapter 95	Adopted	Mar.	673
	XIII.10301-10319	Adopted	Apr.	932
	XIII.Chapter 105	Adopted	May	1092
42	VII.2325,2723,4204,4209	Amended	July	1603
	VII.4209	Amended	July	1602
	VII.4214,4215	Amended	July	1603
	IX.2723,4103,4204,4209	Amended	July	1603
	IX.4209	Amended	July	1602
	IX.4214,4215	Amended	July	1603
	XIII.2325,2723,4204,4209	Amended	July	1603
	XIII.4209	Amended	July	1602
	XIII.4214,4215	Amended	July	1603
43	I.1921,1923	Adopted	Apr.	934
	XIII.307,503,507,509	Amended	Mar.	679
	XIII.913,921,923,1104	Amended	Mar.	679
	XIII.1105,1110,1305,1307, 1309	Amended	Mar.	679
	XIII.1321,1513,1721,1727	Amended	Mar.	679
	XIII.2305,2711,2712,2923	Amended	Mar.	679
	XIII.2939,2943,3105,3303	Amended	Mar.	679
	XIII.3309,3311,3313,3317	Amended	Mar.	679
	XIII. 3321,3325,3327	Amended	Mar.	679
	XIII.3329,3333,3335,3337	Amended	Mar.	679
	XIII.3339,3341,3343,3345	Amended	Mar.	679
	XIII.5103,5105,5109	Amended	Mar.	679
	XIX.537	Amended	Sept.	2262
46	III.105,1101-1109,1113	Amended	June	1325
	III.1117-1121	Amended	June	1325
	III.1201,1203,1705,2501	Adopted	June	1325
	III.1301,1501,1703	Amended	June	1325
	III.2301	Repealed	June	1325
	III.2701-2711,2901	Adopted	June	1325
	V.7101,7103,7301-7309	Adopted	Apr.	921
	V.7501,7503, 7701-7713	Adopted	Apr.	921
	V.7901-7911	Adopted	Apr.	921
	XI.101,102,117,127,315-321,527	Amended	Aug.	2002
	XI.115,125,131,314,335	Adopted	Aug.	2002
	XI.123,129,133,135	Repromulgated	Aug.	2002
	XI.523,525	Repealed	Aug.	2002
	XIX.319,709	Amended	June	1329
	XXIII.107	Repromulgated	Jan.	43
	XXXIII.304,306,703	Amended	Apr.	927
	XXXIII.507	Repealed	Apr.	927
	XXXIII.1515	Adopted	Apr.	927
	XL.120	Amended	Aug.	2011
	XLI.Chapter 23	Adopted	May	1058
	XLV.303,311,353,385,407,413	Amended	July	1582
	XLV.415,418,419,437,447	Amended	July	1582
	XLV.1503,1505,1513,1514	Amended	Jan.	73
	XLV.1519,4501-4505	Amended	Jan.	73
	XLV.1521-1529,4506	Adopted	Jan.	73
	XLV.4511-4513	Amended	Jan.	73
	XLVII.701,1503	Amended	July	1587
	XLVII.3341	Amended	Aug.	2027
	XLVII.3403-3411,3419	Amended	July	1585
	XLVII.Chapter 45	Amended	Aug.	2012
	XLVII.4507	Amended	June	1340
	LIV.306	Adopted	Feb.	441
	LIX.201,203,301,405,409,813	Amended	July	1599
46	LXX.6653	Adopted	Jan.	55
	LXIII.401-415	Adopted	Jan.	70
	LXVII.10101,10301-10307	Amended	June	1332
	LXVII.10308, 10509-10513	Adopted	June	1332
	LXVII.10309-10315,10401-10411	Amended	June	1332
	LXVII.10415,10501-10507	Amended	June	1332
	LXXX.Chapters 1-19	Adopted	Mar.	646
	LXXXV.1015	Amended	Apr.	928
	LXXXV.1515	Amended	Apr.	930
48	I.Chapter 80	Adopted	Feb.	442
	I.7401,7403,7413,7427,7443	Amended	Mar.	669
	I.7429	Repealed	Mar.	669
	V.7005	Adopted	July	1587
	V.7007,7009	Amended	July	1587
	IX.1501-1513	Adopted	Jan.	86
50	I.501,503	Adopted	Aug.	2032
	I.5503	Amended	July	1590
	II.10303,10307	Amended	July	1590
	II.10307	Amended	May	1081
	II.10351	Repealed	July	1590
	II.10375,10385	Adopted	July	1590
	VII.Chapters 301-331	Repromulgated	Sept.	2221
	VII.1305,1309	Amended	July	1596
	XIII.Chapter 133	Adopted	Sept.	2220
	XV.101-105,301,311-325,335,337	Adopted	May	1082
	XV.501,703,707-711,719,731-739	Adopted	May	1082
	XV.705	Amended	May	1082
	XV.755,757,901,1101,1103,1301	Adopted	May	1082
	XV.701	Adopted	Mar.	668
	XV.6903	Amended	Mar.	667
	XV.7101-7105	Amended	Mar.	664
	XV.7107	Adopted	Mar.	664
	XV.7107	Amended	Aug.	2030
	XV.8103-8109	Adopted	Aug.	2030
	XV.10701	Amended	Aug.	2032
	XV.Chapter 111	Amended	Aug.	2028
	XV.Chapters 201-207	Adopted	Aug.	2029
	XVII.101,301,501,503	Repromulgated	July	1597
	XVII.105,125,133	Adopted	Jan.	85
	XVII.1501-1505,1707,1907	Repromulgated	July	1597
	XVII.10117,10307	Repromulgated	July	1597
	XVII.Chapters 301-331	Adopted	Jan.	80
	XVII.30501-30503,30701	Adopted	Jan.	80
	XVII.2101-2113	Adopted	Jan.	81
	XXV.101,301,303,501,503,701	Repromulgated	July	1588
51	XIII.737	Amended	July	1914
52	I.101,301,1204	Amended	June	1227
	I.1701	Adopted	June	1227
	I.1901,1913-1917,2137-2139	Repromulgated	June	1227
	I.1902,1906,1907,1908,1909,1910	Repromulgated	Mar.	620
	I.1908	Repromulgated	Apr.	899
	I.2101-2114,2115-2123,2131-2135	Amended	June	1227
55	I.615	Amended	Apr.	938
	VII.305	Amended	Aug.	2034
	VII.305	Amended	Aug.	2035
	VII.317	Amended	June	1344
	VII.503-509	Amended	Apr.	938
	VII.511	Adopted	Apr.	938
	VII.3115	Adopted	Aug.	2034
	VII.3117	Adopted	Aug.	2036
56	I.Chapters 1-7	Repromulgated	Apr.	942
	III.Chapters 1-7, 21,23	Repromulgated	Apr.	942
58	I.109	Adopted	July	1611
	I.303,503	Amended	Apr.	946
	I.1301	Amended	Jan.	107
	I.2715	Amended	Apr.	946
61	I.306	Amended	Mar.	696
	I.309	Amended	Jan.	90

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61	I.1134	Amended	Mar.	694
	I.4301	Amended	Mar.	697
	I.4311	Amended	May	1101
	I.4351	Amended	May	1101
	I.4355	Amended	Jan.	88
	I.4357	Amended	Jan.	100
	I.4359	Amended	Jan.	90
	I.4361	Amended	Jan.	100
	I.4363	Amended	Jan.	89
	I.4365	Amended	Jan.	91
	I.4367	Amended	Jan.	92
	I.4369	Amended	Jan.	97
	I.4371	Amended	Jan.	98
	I.4373	Amended	Jan.	94
	I.4402	Amended	Jan.	91
	I.4404	Amended	Jan.	99
	I.4406	Amended	Jan.	92
	I.4407	Amended	Jan.	99
	I.4408	Amended	Jan.	95
	I.4409	Amended	Jan.	93
	I.4410	Amended	Jan.	95
	I.4413	Amended	Jan.	88
	I.4416	Amended	Jan.	93
	I.4418	Amended	Jan.	94
	I.4420	Amended	Jan.	97
	I.4906	Adopted	Mar.	699
	I.4910	Amended	Feb.	483
	II.101	Repealed	May	1102
	V.101,703,901,907,1103,1307	Amended	Mar.	699
	V.201-213,304,705,3511-3525	Adopted	Mar.	699
	V.1503,1701,2501,2503,2705	Amended	Mar.	699
	V.2707,3103,3105,3501	Amended	Mar.	699
67	III.1221,1247,5321,5705	Amended	Jan.	102
	III.1965,1966	Amended	June	1345
	III.2514	Amended	Sept.	2266
	III.2527,2540,2545	Amended	May	1102
	III.5102-5111	Amended	Sept.	2262
	III.5103,5107	Amended	Jan.	101
	III.5501,5509-5513,5525-5527	Repealed	Feb.	484
67	III.5533,5537-5539,5547	Repealed	Feb.	484
	III.5553,5557,5567-5569	Repealed	Feb.	484
	III.5577,5601-5631	Repealed	Feb.	484
	III.5541,5545,5549,5561	Amended	Feb.	484
	III.5563,5573	Amended	Feb.	484
	III.5579	Adopted	Feb.	488
	III.5581	Adopted	July	1610
	III.5715,5727	Amended	Jan.	102
	V.1103	Amended	July	1609
	V.1105	Amended	July	1608
	V.2301	Amended	Jan.	101
	V.3507	Adopted	Feb.	484
70	I.315	Amended	Jan.	104
	II.1901-1923	Adopted	Jan.	105
	III.103-109	Amended	Mar.	727
	III.115	Adopted	Sept.	2266
	III.127,135,136,143,150	Amended	Apr.	944
	III.138	Adopted	July	1610
	III.155	Repealed	Apr.	944
	XI.101	Repromulgated	Apr.	898
	XIII.1,13,15,17,21	Repromulgated	Apr.	942
	XV.1,2	Repromulgated	Apr.	942
76	I.327	Amended	May	1103
	I.327-335	Repromulgated	June	1345
	I.329-335	Adopted	May	1103
	V.117	Amended	Sept.	2269
	V.321	Adopted	Sept.	2268
	V.701	Amended	Sept.	2267
	VII.102	Adopted	Apr.	947
	VII.110	Amended	Apr.	948
	VII.199	Adopted	Mar.	728
	VII.367	Amended	Jan.	108
	VII.515	Amended	July	1624
	VII.701	Amended	Apr.	947
	XIX.101,103	Amended	July	1627
	XIX.111	Amended	July	1611

Potpourri

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Department of Agriculture and Forestry
Office of Agriculture and Environmental Sciences
Division of Pesticides and Environmental Programs

Imposition of QuarantineCHurricane Katrina

In accordance with the provisions of the Formosan Termite Initiative Act, (R.S. 3:3391.1 through 3391.13), the Commissioner of Agriculture and Forestry, (commissioner), by the authority granted to him by R.S. 3: 3391.7, hereby issues the following quarantine.

I. Facts Supporting Declaration

On August 29, 2005 Hurricane Katrina devastated the parishes of Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany, Tangipahoa, and Washington. The named parishes are known to be heavily infested with Formosan termites. The hurricane has left millions of tons of wood debris, including debris infested with Formosan termites, in the named parishes. Additionally, thousands of structurally unsound buildings and structures, many of which are infested with Formosan termites, are in the named parishes and will have to be destroyed and turned into wood debris. State and federal authorities have developed plans to turn this wood debris into compost and other items for use in these and other Louisiana parishes. Such use of this wood debris will facilitate the spread of Formosan termites into areas of the state that are either not currently infested or have a minor or moderate infestation, thereby causing destruction or substantial damage to houses and other structures.

Many of the houses and structures that will be destroyed contain architecturally significant components, such as beams and doors, which are both salvageable and economically valuable. These articles will be sold for installation in new and remodeled homes and structures in the named parishes and in other parishes. Many of these articles will be infested with Formosan termites. The use of these infested articles in new and remodeled homes and structures will cause the spread of Formosan termites and subsequent destruction or substantial damage to these and other homes and structures.

The devastation left by Hurricane Katrina also requires temporary and permanent housing to be moved into or built in the named parishes. Unless the movable temporary housing is inspected prior to leaving the named parishes, the use or passage of the temporary housing in or through other parishes of the state will cause the spread of Formosan termites and subsequent destruction or substantial damage to these and other homes and structures. All new construction and reconstruction of permanent housing in the named parishes must be treated for Formosan termites, (and should be constructed or reconstructed with Formosan termite resistant building material) to reduce the extent of infestation and to minimize subsequent destruction and damage to these homes and structures and other homes and structures.

Imposition of this quarantine is required to prevent the spread of Formosan termites and infestation of areas, homes and structures that are not currently infested, or which are to be built or reconstructed. Failure to impose this quarantine will cause severe economic damage and property loss to the citizens of Louisiana.

II. Objectives of Quarantine

The objectives of this quarantine are to prevent the spread of Formosan termites into areas of the state that are not now currently infested with Formosan termites, to prevent Formosan termites from infesting existing homes and structures that are not currently infested, and to prevent Formosan termites from infesting new and reconstructed homes and structures.

III. Geographical Area of Quarantine

The geographical areas of this quarantine are the named parishes of Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany, Tangipahoa, and Washington.

IV. Prohibitions and Requirements

1. All new construction and reconstruction of houses, buildings and other permanent structures in the named parishes must be treated for Formosan termites according to the Louisiana Structural Pest Control Commission's Rules and Regulations.

2. The movement of any wood or cellulose material from the named parishes is prohibited unless either (1) such wood or cellulose material has been fumigated or otherwise treated for Formosan termites and is approved for movement by the commissioner or his designee(s), or (2) the commissioner or his designee(s) gives written authorizations for untreated wood or cellulose material to be moved from the named parishes.

3. All temporary housing to be moved out of the named parishes shall not be removed from the named parishes until written authorization is given by the commissioner or his designee(s).

4. All architectural components, such as beams, doors, and other wood salvaged from a structure in the named parishes shall not be sold or placed in a new, remodeled, or reconstructed home, building, or permanent structure located in the named parishes or in any other parish prior to being fumigated or treated for Formosan termites.

5. Although not required under this quarantine, it is strongly urged and recommended that all new construction and reconstruction of homes, buildings, and structures in the named parishes be performed using Formosan termite resistant building material, such as treated lumber.

V. Exemptions from Quarantine

The following activities shall be exempt from this quarantine.

1. Commercial logging and timber operations related to silvaculture productions.

2. Commercial operations involving the sale or distribution of nursery stock. Nursery stock is defined in R.S. 3:1656(B) and means "all trees, shrubs, ornamental plants, grass sod, foliage plants, or marsh plants."

VI. Time Limit

This quarantine shall remain in effect until rescinded by my written order. A waiver of any requirement or authorization for anyone to do any of the prohibited acts, whether in whole or in part, by me or my designee(s) shall not be construed as rescinding or modifying this quarantine.

Signed October 3, 2005 at Baton Rouge, Louisiana.

Bob Odom
Commissioner

0510#043

POTPOURRI

Department of Agriculture and Forestry
Office of Agriculture and Environmental Sciences
Division of Pesticides and Environmental Programs

Imposition of QuarantineCHurricane Rita

In accordance with the provisions of the Formosan Termite Initiative Act, (R.S. 3:3391.1 through 3391.13), the Commissioner of Agriculture and Forestry, (commissioner), by the authority granted to him by R.S. 3: 3391.7, hereby issues the following quarantine:

I. Facts Supporting Declaration

On September 24, 2005 Hurricane Rita devastated the parishes of Calcasieu, Cameron and Jefferson Davis. The named parishes are known to be heavily infested with Formosan termites. The hurricane has left millions of tons of wood debris, including debris infested with Formosan termites, in the named parishes. Additionally, thousands of structurally unsound buildings and structures, many of which are infested with Formosan termites, are in the named parishes and will have to be destroyed and turned into wood debris. State and federal authorities have developed plans to turn this wood debris into compost and other items for use in these and other Louisiana parishes. Such use of this wood debris will facilitate the spread of Formosan termites into areas of the state that are either not currently infested or have a minor or moderate infestation, thereby causing destruction or substantial damage to houses and other structures.

Many of the houses and structures that will be destroyed contain architecturally significant components, such as beams and doors, which are both salvageable and economically valuable. These articles will be sold for installation in new and remodeled homes and structures in the named parishes and in other parishes. Many of these articles will be infested with Formosan termites. The use of these infested articles in new and remodeled homes and structures will cause the spread of Formosan termites and subsequent destruction or substantial damage to these and other homes and structures.

The devastation left by Hurricane Rita also requires temporary and permanent housing to be moved into or built in the named parishes. Unless the movable temporary housing is inspected prior to leaving the named parishes, the use or passage of the temporary housing in or through other parishes of the state will cause the spread of Formosan termites and subsequent destruction or substantial damage to these and other homes and structures. All new construction and reconstruction of permanent housing in the named parishes must be treated for Formosan termites, (and should be constructed or reconstructed with Formosan termite resistant building material) to reduce the extent of infestation and to minimize subsequent destruction and damage to these homes and structures and other homes and structures.

Imposition of this quarantine is required to prevent the spread of Formosan termites and infestation of areas, homes and structures that are not currently infested, or which are to be built or reconstructed. Failure to impose this quarantine will cause severe economic damage and property loss to the citizens of Louisiana.

II. Objectives of Quarantine

The objectives of this quarantine are to prevent the spread of Formosan termites into areas of the state that are not now currently infested with Formosan termites, to prevent Formosan termites from infesting existing homes and structures that are not currently infested, and to prevent Formosan termites from infesting new and reconstructed homes and structures.

III. Geographical Area of Quarantine

The geographical areas of this quarantine are the named parishes of Calcasieu, Cameron and Jefferson Davis.

IV. Prohibitions and Requirements

1 All new construction and reconstruction of houses, buildings and other permanent structures in the named parishes must be treated for Formosan termites according to the Louisiana Structural Pest Control Commission's Rules and Regulations.

2. The movement of any wood or cellulose material from the named parishes is prohibited unless either (1) such wood or cellulose material has been fumigated or otherwise treated for Formosan termites and is approved for movement by the Commissioner or his designee(s), or (2) the Commissioner or his designee(s) gives written authorizations for untreated wood or cellulose material to be moved from the named parishes.

3. All temporary housing to be moved out of the named parishes shall not be removed from the named parishes until written authorization is given by the Commissioner or his designee(s).

4. All architectural components, such as beams, doors, and other wood salvaged from a structure in the named parishes shall not be sold or placed in a new, remodeled, or reconstructed home, building, or permanent structure located in the named parishes or in any other parish prior to being fumigated or treated for Formosan termites.

5. Although not required under this Quarantine, it is strongly urged and recommended that all new construction and reconstruction of homes, buildings, and structures in the named parishes be performed using Formosan termite resistant building material, such as treated lumber.

V. Exemptions from Quarantine

The following activities shall be exempt from this quarantine.

1. Commercial logging and timber operations related to silvaculture productions.

2. Commercial operations involving the sale or distribution of nursery stock. Nursery stock is defined in R.S. 3:1656(B) and means "all trees, shrubs, ornamental plants, grass sod, foliage plants, or marsh plants."

VI. Time Limit

This quarantine shall remain in effect until rescinded by my written order. A waiver of any requirement or authorization for anyone to do any of the prohibited acts, whether in whole or in part, by me or my designee(s) shall not be construed as rescinding or modifying this quarantine.

Signed October 3, 2005 at Baton Rouge, Louisiana.

Bob Odom
Commissioner

0510#044

POTPOURRI

Department of Agriculture and Forestry
Office of Agro Consumer Services
Division of Weights and Measures

Emergency Authorization of ASTM D 4818
Vapor Pressure Standard for October 2005

WHEREAS: the Governor of the State of Louisiana has declared a state of emergency in this state through Proclamation No. 48 KBB 2005 pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act;

WHEREAS: the governor has issued Executive Order KBB 05-27 for purposes of coping with the emergency and authorized all available resources of state government to be utilized as reasonably necessary to cope with the emergency;

WHEREAS: hurricanes Katrina and Rita have caused a disruption in gasoline deliveries and closure of refineries, thereby leading to potential gas shortages in both the state and the country;

WHEREAS: the Department, in its regulations, governing standard fuel specifications for gasoline and gasoline-oxygenate blends has adopts the ASTM D 4814 standard for gasoline by reference;

WHEREAS: the ASTM D 4814 standards mandate an 11.5 psi vapor pressure for October 2005;

WHEREAS: raising the vapor pressure to 13.5 psi, which is an allowable vapor pressure for November 2005 would allow the operating refineries to make more gasoline than they could otherwise since more compounds could be used for gasoline blending. The manufacture of more gasoline would help alleviate gasoline shortage and help reduce the price of gasoline;

WHEREAS: the gasoline refining and marketing community has requested authorization to utilize the 13.5 psi vapor pressure for October 2005 to help alleviate any gasoline shortage;

WHEREAS: there does not appear to be any environmental problems with allowing the increase to 13.5 psi for the month of October;

THEREFORE: I, Bob Odom, Commissioner of Agriculture and Forestry, pursuant to the powers granted to me by law and pursuant to Executive Order KBB 05-27 hereby authorize refiners of gasoline in Louisiana to either maintain the vapor pressure at 11.5 or to raise the vapor pressure to 13.5 psi for the month of October 2005 and until such time in November that the ATSM D 4818 standard of 13.5 psi comes into effect.

Signed on September 28, 2005 at Baton Rouge, Louisiana.

Bob Odom
Commissioner

0510#042

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Department of Environmental Quality
Office of the Secretary

Grant Parish Ozone Maintenance Plan

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., the secretary gives notice that the Office of Environmental Assessment, Plan Development Section, will submit a proposed revision to the ozone maintenance plan for Grant Parish. This revision to the State Implementation Plan (SIP) is mandated under Section 110(a)(1) requirements of the 1990 Clean Air Act Amendments (CAAA).

According to the Phase 1 Implementation Rule published April 30, 2004 (69 FR 23951), areas that are designated attainment for the 8-hour ozone National Ambient Air Quality Standards (NAAQS) and are designated attainment for the 1-hour ozone NAAQS with an approved maintenance plan must submit a revision.

A public hearing will be held at 1:30 p.m. on November 29, 2005, in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA. Should individuals with a disability need an accommodation in order to participate, please contact Vivian H. Aucoin at (225) 219-3575 or at the address listed below. Interested persons are invited to attend and submit oral comments on the proposal.

All interested persons are invited to submit written comments concerning the SIP revision no later than 4:30 p.m., November 29, 2005, to Vivian H. Aucoin, Office of Environmental Assessment, Box 4314, Baton Rouge, LA 70821-4314 or to fax (225) 219-3582 or by e-mail to vivian.aucoin@la.gov.

A copy of the SIP revision for Grant Parish may be viewed from 8 a.m. to 4:30 p.m. in the DEQ Public Records Center, Room 127, 602 N. Fifth Street, Baton Rouge, LA, or at the Northeast Regional Office located at 1823 Hwy. 546, West Monroe, LA.

Herman Robinson, CPM
Executive Counsel

0510#074

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Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Federal Hazardous Waste Manifest Implementation

The Environmental Protection Agency (EPA) has established new requirements revising the Uniform Hazardous Waste Manifest regulations and the manifest and continuation sheet forms used to track hazardous waste from a generator's site to the site of its disposition. The revisions will standardize the content and appearance of the manifest form and continuation sheet (Forms 8700-22 and 22a), make the forms available from a greater number of sources, and adopt new procedures for tracking certain types of waste shipments with the manifest. The latter types of shipments include hazardous wastes that destination facilities reject, wastes consisting of residues from non-empty hazardous waste containers, and wastes entering or leaving the United States.

The Uniform Hazardous Waste Manifest rules by USEPA/USDOT shall become effective September 5, 2006. The Louisiana Department of Environmental Quality (LDEQ) will no longer have authorization to require hazardous waste handlers to acquire from LDEQ and use the Louisiana Uniform Hazardous Waste Manifest. After the effective date of the new manifest rules (September 5, 2006), Uniform Hazardous Waste Manifest forms must be obtained only from EPA-registered and approved sources. These sources must apply for registration by submitting the required information regarding the strict manifest form printing and tracking requirements specified by the new rule and then obtain express authorization by the EPA to be a manifest form printer/provider. The LDEQ will not become an EPA manifest form printer/provider. However, the LDEQ has anticipated the need for Louisiana Uniform Hazardous Waste Manifest forms based on previous order statistics and will have supplies up to the rule effective date of September 5, 2006. Until the effective date of the new rule, LDEQ will continue to make its current supply of manifest forms available to hazardous waste handlers that must use the forms in compliance with the applicable regulations in LAC 33:Part V, Louisiana Hazardous Waste Regulations. If these supplies become exhausted before the effective date of the new rule, LDEQ will refer hazardous waste handlers' requests for manifest forms to any other available source that provides manifest forms under its authorization and regulations, i.e., EPA, other authorized manifest state, EPA-approved new manifest form supplier, etc. After the effective date of the new rule (September 5, 2006), the LDEQ will refer manifest form requests to the EPA registry of approved new manifest form providers/printers.

You may access the *Federal Register*, 70 FR 10814 (March 4, 2005), to read the complete final rule. Contact Mr. James Miller, Office of Environmental Services, for further information at 225-219-3245 or James.Miller@la.gov.

Herman Robinson, CPM
Executive Counsel

0509#027

POTPOURRI

Office of the Governor
Oil Spill Coordinator's Office

Apache Corporation Pipeline Discharge
Final Restoration Plan

Agencies: Louisiana Oil Spill Coordinator's Office, Office of the Governor (LOSCO); Louisiana Department of Environmental Quality (LDEQ); Louisiana Department of Natural Resources (LDNR); and Louisiana Department of Wildlife and Fisheries (LDWF);

Action: Notice of Availability of a Final Restoration Plan.

Summary: Notice is hereby given that a document entitled "Final Restoration Plan for the June 21, 1997 Apache Corporation Pipeline Discharge near Freshwater City, Vermilion Parish, Louisiana: A Corrective Action for the Vermilion Parish Coastal Marsh Compensatory Restoration Project" (Final Restoration Plan) is final and available to the public as of October 20 2005. This document has been prepared by the agencies listed above (trustees) to address injuries to natural resources and services following the June 21, 1997 discharge of crude oil into a coastal marsh near Freshwater City, Louisiana (incident). The Final Restoration Plan provides summarized information on the natural resource injury determinations, restoration activities to date, and restoration actions selected by the Trustees to compensate the public for injuries to natural resources resulting from the spill that were not provided due to the failure of the previous compensatory restoration project.

Interested members of the public are invited to request a copy of the Final Restoration Plan from Chuck Armbruster at the address given below.

For Further Information: Contact Chuck Armbruster at (225) 219-5800, or by e-mail at charlesarmbruster@la.gov. To view the Final Restoration Plan via the internet, please visit www.losco.state.la.us and look under News Flash for Freshwater Bayou Oil Spill.

Address: Requests for copies of the Final Restoration Plan should be sent to:

Charles Armbruster
Louisiana Oil Spill Coordinator's Office
150 Third Street, Suite 405
Baton Rouge, LA 70801

Supplementary Information: The public was given an opportunity to review and comment on the Draft Restoration Plan during the public comment period, which extended from July 20, 2005 through August 22, 2005. Public review of the Final Restoration Plan is consistent with all State and Federal laws and regulations that apply to the Natural Resource Damage Assessment (NRDA) process, including Section 1006 of the Oil Pollution Act (OPA), 33 U.S.C. §2706; the regulations for NRDA under OPA, 15 C.F.R. Part 990; Section 2480 of the Louisiana Oil Spill Prevention and Response Act (OSPRA), R.S. 30:2480 *et seq.*; and the regulations for NRDA under OSPRA, LAC 43:XXIX. Chapter 1. The trustees did not receive comments during the public comment period and have finalized the Restoration Plan for the June 21, 1997 Apache Corporation Pipeline

Discharge near Freshwater City, Vermilion Parish, Louisiana: A Corrective Action for the Vermilion Parish Coastal Marsh Compensatory Restoration Project.

Roland Guidry
Oil Spill Coordinator

0510#068

POTPOURRI

Office of the Governor
Oil Spill Coordinator's Office

Natural Gas Condensate Discharge in Mosquito Bay
Final Damage Assessment and Restoration
Plan/Environmental Assessment

Agencies: Louisiana Oil Spill Coordinator's Office, Office of the Governor (LOSCO); Louisiana Department of Environmental Quality (LDEQ); Louisiana Department of Natural Resources (LDNR); Louisiana Department of Wildlife and Fisheries (LDWF); National Oceanic and Atmospheric Administration (NOAA); and United States Department of the Interior (USDOI) which is represented by the U.S. Fish and Wildlife Service (USFWS).

Action: Notice of availability of a Final Damage Assessment and Restoration Plan/Environmental Assessment.

Summary: Notice is hereby given that a document entitled, "Final Damage Assessment and Restoration Plan and Environmental Assessment for the April 5, 2001, Natural Gas Condensate Discharge in Mosquito Bay on Point Au Fer Island, Terrebonne Parish, Louisiana" (Draft DARP/EA) is final and available to the public as of October 20 2005. This document has been prepared by the agencies listed above (trustees) to address injuries to natural resources and services following the April 5, 2001 discharge of natural gas condensate into Mosquito Bay on Point Au Fer Island, Louisiana (the incident). This document presents the trustees' assessment of injuries to natural resources and services attributable to this incident, and their plan to restore, replace, or acquire resources or services equivalent to those lost as a basis for compensating for the injuries to natural resources and services that occurred.

Interested members of the public are invited to request a copy of the Final DARP/EA from Gina Muhs Saizan at the address given below.

For Further Information: Contact Gina Muhs Saizan at (225) 219-5800 or by email gina.saizan@la.gov (to view the Final DARP/EA via the internet: www.losco.state.la.us and look under the News Flash for Mosquito Bay Oil Spill Final DARP/EA).

Address: Requests for copies of the Final DARP/EA should be sent to:

Gina Muhs Saizan
Louisiana Oil Spill Coordinator's Office
150 Third Street, Suite 405
Baton Rouge, LA 70801
gina.saizan@la.gov

Supplementary Information: The public was given an opportunity to review and comment on the Draft DARP/EA during the public comment period, which extended from July 20, 2005 through August 22, 2005. Public review of the Draft DARP/EA is consistent with all state and federal laws and regulations that apply to the Natural Resource Damage Assessment (NRDA) process, including Section 1006 of the Oil Pollution Act (OPA), 33 U.S.C. §2706; the regulations for NRDA under OPA, 15 C.F.R. Part 990; Section 2480 of the Louisiana Oil Spill Prevention and Response Act (OSPRA), R.S. 30:2480 *et seq.*; and the regulations for NRDA under OSPRA, LAC 43:XXIX.Chapter 1. The trustees did not receive comments during the public comment period and have finalized the DARP/EA for the April 5, 2001, Natural Gas Condensate Discharge in Mosquito Bay on Point Au Fer Island, Terrebonne Parish, Louisiana.

Roland Guidry
Oil Spill Coordinator

0510#067

POTPOURRI

Office of the Governor
Oil Spill Coordinator's Office

Sonat Goins Oil SpillC Draft Damage Assessment and Restoration Plan/Environmental Assessment

Agencies: Louisiana Oil Spill Coordinator's Office, Office of the Governor (LOSCO); Louisiana Department of Environmental Quality (LDEQ); and Louisiana Department of Wildlife and Fisheries (LDWF); United States Department of Agriculture (USDA); which is represented by the United States Forest Service (USFS)

Action: Notice of Availability of a Draft Damage Assessment and Restoration Plan/Environmental Assessment for the Sonat Goins Oil Spill in Vernon Parish, Louisiana

Summary: Pursuant to 15 C.F.R. §990.23 and 15 C.F.R. §990.55(c) and LAC 43:XXIX.Chapter 1, notice is hereby given that a document entitled, "Draft Damage Assessment and Restoration Plan/Environmental Assessment, Sonat Goins Oil Spill, Vernon Parish, Louisiana" (Draft DARP/EA) will become available for public review and comment on October 20, 2005. This document is being prepared by the agencies listed above (the trustees) to address injuries to natural resources and services, following the August 8, 1997 discharge of crude oil onto the Goins Tract in Vernon Parish, near Cravens, Louisiana, (the incident). This document presents the trustees' assessment of injuries to natural resources and services attributable to this incident, and their proposed plan to restore, replace, or acquire resources or services equivalent to those lost as a basis for compensating for the injuries to natural resources and services that occurred. The trustees will consider comments received during the public comment period before finalizing the DARP/EA. Public review of the Draft DARP/EA is consistent with all state and federal laws and regulations that apply to the Natural Resource Damage Assessment (NRDA) process, including Section 1006 of the Oil Pollution Act (OPA), 33 U.S.C. §2706; the regulations for NRDA under OPA, 15 C.F.R. Part 990; National Environmental Policy Act (NEPA), 42 U.S.C. §4321 et seq.; the regulations implementing NEPA, 40 C.F.R. §1500 et seq.; Section 2480 of the Louisiana Oil Spill Prevention and

Response Act (OSPRA), R.S. 30:2480; and the regulations for NRDA under OSPRA, LAC 43:XXIX.Chapter 1.

Interested members of the public are invited to request a copy of the Draft DARP/EA from Gina Muhs Saizan at the address given below.

For Further Information: Contact Gina Muhs Saizan at (225) 219-5800, or by email at gina.saizan@la.gov. To view the Draft DARP/EA via the internet, please visit www.losco.state.la.us and look under News Flash for Sonat Oil Spill.

Address: Requests for copies of the Draft DARP/EA should be sent to:

Gina Muhs Saizan
Louisiana Oil Spill Coordinator's Office
150 Third Street, Suite 405
Baton Rouge, LA 70801

Supplementary Information: On August 8, 1997, former Sonat Well Exploration Company, presently El Paso Production Company, was conducting exploratory drilling operations at a location identified as Well No. 7 on the Goins Tract in Vernon Parish, near Cravens, Louisiana. Well No. 7 is bordered to the north, east, and south by the Kisatchie National Forest (KNF) and to the south and west by private land. Little Six Mile Creek is located on the private land west and south of the well location. At approximately 11:30 a.m. on August 8, 1997, the well experienced a blowout event, which continued until approximately 3 p.m. on August 15, 1997, at which time the incident was controlled.

Over this eight-day period, the well released a pressurized spray of oil, brine, drilling mud and tailings, and natural gas to the drilling pad and surrounding areas. Sonat and government agency personnel cooperatively conducted emergency response actions, including: damming Little Six Mile Creek downstream of the site; and the construction of a diversion dike to direct accumulated fluids from the drilling pad, westward, to the dammed portion of Little Six Mile Creek and away from KNF land. The dammed portion of the creek was used for collection and recovery of oil, water, brine and drilling fluid. As a result of the incident, oil and brine impacted soils, sediments, surface water, and vegetation. Vegetation, including hardwood trees, within the impacted wetland area subsequently died or exhibited conditions of stress. Approximately 58 acres were affected by the release.

The incident is subject to the authority of OPA, 33 U.S.C. §2701 et seq.; the Federal Water Pollution Control Act (FWPCA or Clean Water Act), 33 U.S.C. §1251 et seq.; and OSPRA, R.S. 30:2451 et seq. LOSCO, LDEQ, LDWF, and USDA/USFS are Trustees for natural resources pursuant to Section 2706 of OPA, 33 U.S.C. §2706; Section 311 of the Clean Water Act, 33 U.S.C. §1321; Subpart G of the National Contingency Plan, 40 C.F.R. §§ 300.600-300.615; and, in the case of the Louisiana Trustees, OSPRA, R.S. 30:2451 et seq., and in the case of the Federal Trustee, Executive Order 12777. As a designated trustee, each agency is authorized to act on behalf of the public under state and/or federal law to assess injuries to natural resources and services, and to plan and implement actions to restore and recover natural resources and services injured or lost as the result of an incident.

Pursuant to Section 1006 of OPA (33 U.S.C. §2706) and OSPRA (R.S. 30:2480), the designated trustees have conducted a damage assessment for this incident to evaluate injuries to natural resources and services, and to determine the need for, and scale of, restoration actions required. The Draft DARP/EA discusses the natural resources and services determined affected by the incident, describes the assessment procedures used, outlines the restoration alternative selection and scaling process, and identifies the preferred restoration alternative to address injuries to natural resources and services. The trustees identified a reasonable range of restoration alternatives exhibiting a sufficient nexus to the injured habitat. The enhancement of 299.42 acres of Red-cockaded Woodpecker (RCW) habitat was identified as the preferred alternative for restoring natural resources and services lost as a result of this incident.

Roland Guidry
Oil Spill Coordinator

0510#069

POTPOURRI

Department of Health and Hospitals
Office of Public Health

WIC Program's State Plan for 2005-2006

In accordance with Public Laws 99-500 and 99-591 the Louisiana Special Nutrition Program for Women, Infants and Children (WIC) is soliciting comments from the general public on the WIC Program's State Plan for 2005-2006. The plan describes in detail the goals and the planned activities of the WIC Program for the next year. Interested persons may find copies of the state plan at the Central Nutrition/WIC Office (address below) or they may apply directly to the Nutrition/WIC office for copies of the plan at $0.25 per page. Interested individuals should submit their requests for copies or their comments on the plan to the following address:

State of Louisiana
Department of Health and Hospitals
Office of Public Health
Nutrition Services
1201 Capitol Access Road, Bin 4
Baton Rouge, LA 70804
Attention: State Plan

Additional information may be gathered by contacting Debbie Luthy, Director of WIC-Nutrition Section, (225) 342-1865.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0510#091

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