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DECLARATION OF EMERGENCY

Board of Supervisors of Southern University

On November 17, 1979, at the regular meeting of the Southern University Board of Supervisors, exercising those powers conferred by the emergency provisions of the Administrative Procedures Act, R.S. 49:953B, the following rules were adopted. This action was necessary in order to protect the economic welfare of Southern University, Baton Rouge Campus.

1. An increase of two dollars in the student union fee was adopted, effective Spring Semester, 1980.

2. An increase of one dollar per semester for student health and accident insurance was adopted, effective Spring Semester, 1980.

James J. Prestage, Acting President
Board of Supervisors of Southern University

DECLARATION OF EMERGENCY

Department of Health and Human Resources Office of Family Security

The Department of Health and Human Resources, Office of Family Security, does hereby exercise the emergency provision of the Administrative Procedures Act (R.S. 49:953 B) to adopt effective January 1, 1980, the following increases in the Aid to Families with Dependent Children (AFDC) and General Assistance (GA) Need Standards. This action is necessary so that needy families will receive public assistance which they are entitled to.

The current need standards are shown in parentheses. Using a 10.8 percent increase standard, the new AFDC and GA Need Standards are proposed as follows:

AFDC Need Standards

Size of Household	Non-Urban	Urban
1	\$ 139 (125)	\$ 151 (136)
2	259 (234)	289 (261)
3	366 (330)	402 (363)
4	456 (412)	494 (446)
5	543 (490)	583 (526)
6	622 (561)	664 (599)
7	704 (635)	742 (670)
8	782 (706)	821 (741)
9	856 (773)	896 (809)
10	933 (842)	972 (877)
11	1014 (915)	1054 (951)
12	1098 (991)	1138 (1027)
13	1187 (1071)	1219 (1100)
14	1273 (1149)	1306 (1179)
15	1361 (1228)	1394 (1258)
16	1448 (1307)	1488 (1343)
17	1536 (1386)	1560 (1408)
18	1623 (1465)	1659 (1497)

For each additional person, add \$94 (85)

For each additional person, add \$103 (94)

GA Need Standard

1 person - \$229 (207)

2 persons - 289 (261)

William A. Cherry, M.D., Secretary
Department of Health and Human Resources

DECLARATION OF EMERGENCY

Department of Health and Human Resources Office of Family Security

In accordance with the Appropriation Act of the 1979 Louisiana Legislature, the Department of Health and Human Resources, Office of Family Security will implement policy effective January 1, 1980, providing for the semiannual adjustments for the coupon allotments and standard deduction in the Food Stamp Program. This action is necessary to allow the Food Stamp Program to be in compliance with federal regulations as specified in the federal register, Volume 44, Number 216, November 6, 1979, pages 64067 - 64069.

This is also necessary so that Food Stamp recipients will receive the Food Stamp coupons that they are entitled to.

The following is the Thrifty Food Plan (TFP) amounts and standard deduction.

Household Size	TFP	Household Size	TFP
1	\$ 63	11	\$517
2	115	12	564
3	165	13	611
4	209	14	658
5	248	15	705
6	298	16	752
7	329	17	799
8	376	18	846
9	423	19	893
10	470	20	940

For each additional person in excess of twenty, add forty-seven.
The new standard deduction is seventy-five dollars.

William A. Cherry, M.D., Secretary
Department of Health and Human Resources

DECLARATION OF EMERGENCY

Department of Health and Human Resources Office of Family Security

In accordance with the Appropriation Act of the 1979 Louisiana Legislature, the Department of Health and Human Resources, Office of Family Security will implement policy effective January 1, 1980, which allows persons sixty years of age or over and persons who receive Supplemental Security Income (SSI) Benefits under Title II of the Social Security Act to deduct from the household's income that portion of medical expenses in excess of thirty-five dollars per month excluding special diets. These households shall be given an excess shelter deduction for the monthly cost that exceeds fifty percent of the household's monthly income after all other applicable deductions. This action is necessary to allow the Food Stamp Program to be in compliance with federal regulations as specified in the *Federal Register*, Volume 44, Number 187, Tuesday, September 25, 1979, pages 55160 - 55165. It is also necessary to ensure that certain Food Stamp recipients receive deductions and coupon allotments that they are entitled to.

Spouses or other persons receiving benefits as a dependent of the SSI or disability recipient are not eligible to receive this deduction but persons receiving emergency SSI benefits based on presumptive eligibility are eligible for this deduction.

William A. Cherry, M.D., Secretary
Department of Health and Human Resources

Rules

RULE

Board of Elementary and Secondary Education

Rule 4.01.50a

(Replaces present policy in effect) The Board adopted amended Nonpublic School Testing Guidelines.

Nonpublic School Testing Guidelines

Section I: Rationale. The purpose of this program is to assess the sustained curriculum of course of study in nonpublic schools through the use of standardized instruments.

A systematic auditing of these results will give some measure of the progress achieved by the individual pupil, a local school and the system as a unit, and also serve as an indicator of the need for remedial programs.

Such an audit would assist in assessing the variation of effectiveness of different instructional procedures and/or different curricular arrangements. The program would assist in assessing the degree to which fixed goals and objectives are accomplished.

The program would make available standardized testing for pupils in grades K-12 to evaluate the sustained curriculum or course of study.

Definition of Terms.

School — approved nonpublic school which is not classified as part of an organized system.

System — approved nonpublic schools forming part of an association of schools functioning under a Board which sets policy.

LDE — Louisiana Department of Education — nonpublic school testing staff.

BESE — Louisiana State Board of Elementary and Secondary Education

Goals.

1. Assessment of program evaluation as an educational priority
2. Assessment of effective pupil learning

Objectives.

1. Indicators which have been subjected to tests for both validity and reliability in terms of effectiveness that can be communicated to provide the Board of Elementary and Secondary Education (BESE) and other interested persons data by which they can evaluate the sustained curriculum or course of study in approved nonpublic schools.

2. Identification of programs that are effective.

3. Development of conclusions drawn from hard data that help decision makers refine, expand, or drop programs.

Section II: Basic Design of Testing Program.

A. Selection of Instrument. The school or system will identify one type of norm-referenced instrument to be used for testing from the approved list of test publishers, as established by the Advisory Council for Nonpublic School Testing.

B. Reporting Format. Percentile rank by subtest based on national norms will be reported. Raw score, standard score and normal curve equivalent (NCE) score will be furnished LDE for analysis. Summary results of hand scored tests must be provided the LDE by the school or system. After each school has administered the tests and returned them to the publisher for scoring, the results will be sent to the LDE with copies to the

Allowable medical costs are:

A. Medical and dental care, including psychotherapy and rehabilitation services provided by a licensed practitioner authorized by state law or other qualified health professional.

B. Hospitalization or outpatient treatment, nursing care, and nursing home care including payments by the household for an individual who was a household member immediately prior to entering a hospital or nursing home provided by a facility recognized by the state.

C. Prescription drugs when prescribed by a licensed practitioner authorized under state law and other over-the-counter medication (including insulin) when approved by a licensed practitioner or other qualified health professional; in addition, costs of medical supplies, sick room equipment (including rental) or other prescribed equipment are deductible.

D. Health and hospitalization insurance policy premiums. The costs of health and accident policies such as those payable in lump sum settlements for death or dismemberment or income maintenance policies such as those that continue mortgage or loan payments while the beneficiary is disabled are not deductible.

E. Medicare premiums related to coverage under Title XVIII of the Social Security Act; any cost-sharing or spend-down expenses incurred by Medicaid recipients.

F. Dentures, hearing aids, and prosthetics.

G. Securing and maintaining a seeing eye or hearing dog including the cost of dog food and veterinarian bills.

H. Eye glasses prescribed by a physician skilled in eye disease or by an optometrist.

I. Reasonable cost of transportation and lodging to obtain medical treatment or services.

J. Maintaining an attendant, homemaker, home health aide, or child care services, housekeeper, necessary due to age, infirmity, or illness. In addition, an amount equal to the one person coupon allotment shall be deducted if the household furnishes the majority of the attendant's meals. The allotment for this meal-related deduction shall be that in effect at the time of initial certification. The state agency is only required to update the allotment amount at the next scheduled recertification; however, at their option, the state agency may do so earlier. If a household incurs attendant care costs that could qualify under both the medical deduction and dependent care deduction, the state agency shall treat the cost as a medical expense.

Monthly shelter costs is the amount in excess of fifty percent of the household's income after all other deductions have been applied. The shelter deduction alone or in combination with the dependent care deduction shall not exceed ninety dollars unless the household contains a member who is age sixty or over or who receives SSI (including emergency benefits based on presumptive eligibility) under Title XVI or disability payments under Title II of the Social Security Act. These households shall be given an excess shelter deduction for the monthly cost that exceeds fifty percent of the household's monthly income after all other applicable deductions. That portion of an allowable medical expense which is not reimbursable shall be included as part of the household's medical expenses. Households entitled to the medical deduction shall have the nonreimbursable portion considered at the time the amount of reimbursement is received or can otherwise be verified.

Households reporting one-time only medical expenses during their certification period may elect to have a one-time deduction or to have the expense averaged over the remaining months of the certification period. Averaging would begin the month the change would become effective.

school by calendar dates established annually by the advisory council.

C. Name and Publisher of Instrument. The school or system will submit the name and publisher of the instrument to be used for testing students to LDE sixty days prior to anticipated testing date. In addition, they will submit by grade level the number of students participating in the school program; the unit price per student as substantiated by the publisher's catalog must also be included with the school order. The publisher's remuneration shall not exceed the amount of the purchase order plus shipping costs. Addition costs must be borne by the school.

D. Acquisition of Materials. The school or system will notify the LDE of their test recommendations. The LDE staff will issue a purchase order to the publisher authorizing delivery of the tests to the schools.

E. Fiscal Administration. The school or system will provide the LDE with the name of the selected instrument, the vendor, and the number of students to be tested at each grade level.

A purchase order will be issued by the LDE to the selected vendor for each school.

The school will notify the LDE upon receipt of the materials so that partial payment may be made if required.

Upon receipt of the test results (a copy of which will be supplied the LDE) the school or system will notify the LDE and final payment will be made.

Section III: Administration of Testing Program

A. Test dates. Spring or Fall in accordance with publishers' norming dates.

B. Grade Levels to be Tested. Standardized testing to evaluate sustained curriculum or course of study, grades K-12.

C. Testing Exclusions. Any exceptional child who, with the aid of any available related services, is capable of participating in the approved nonpublic school testing program, and who meets the criteria established by the Department of Education's office of special education for participation in such program, shall participate.

Section IV.

A. Board Reporting. A summary report of data by selected instrument will be provided by LDE to the Board of Elementary and Secondary Education. This summary report may also be provided to the Elementary and Secondary Education Bureaus of the Department of Education for purposes of evaluating the sustained curriculum.

B. Release of Test Data. Data relative to test results of individual students, teachers, classes, or schools will only be released in accordance with the Buckley Amendment and Attorney General's Opinion 77-1340.

Section V: Advisory Council. The Nonpublic School Testing Advisory Council appointed by the Board of Elementary and Secondary Education will continue to function in an advisory capacity throughout the duration of the program.

Rule 4.01.50b

The Board adopted the following directives to be used in listing nonpublic schools in the Louisiana School Directory: If a school does not submit an annual school report, it shall not be listed in the directory; schools ineligible under the Brumfield vs. Dodd decision would be so listed in the directory and be noted as ineligible by the use of an asterisk. Approval categories should be listed as approved, provisional, probational, or unapproved, with appropriate notations as to whether or not the schools are special schools or alternative schools and have met those standards.

Rule 1.00.30c

Amendment to present policy which will require that referrals of advisory council minutes/reports be made to the standing committee(s) at the discretion of the Board Staff Director.

James V. Soileau, Executive Director
Board of Elementary and Secondary Education

RULES

Department of Health and Human Resources Air Control Commission

Regulation Revisions

Add the following definitions to Section 4 of the Regulations:

4.95 "New Design" Furnace. An existing straight kraft recovery furnace with both welded-wall or membrane wall construction and emission-control-designed air systems, for which design specifications, purchase contract or manufacturer's warranty specifies a capability for continuous total reduced sulfur (TRS) emissions equivalent to the New Source Performance Standards (*Federal Register*, February 23, 1978, Part V).

4.96 Cross-recovery. The practice of combining the spent liquors from a soda-based semi-chemical pulping process, such as NSSC, with kraft mill black liquor prior to burning in a recovery furnace. Less than seven percent semi-chemical liquor, on a quarterly basis, based on equivalent air-dry pulp production, will not be classified as cross-recovery.

4.97 "Bubble Concept." An alternative emission plan whereby a facility with multiple sources of a given pollutant may achieve a required total emission by a different mix of controls from that mandated by regulation. Some sources may be assigned more restrictive limits, while others would meet less restrictive ones, provided the resulting total emissions are equivalent. Such a concept may permit a more expeditious compliance plan.

Add to Table 4, "Emissions—Methods of Contaminant Measurement."

Total Reduced Sulfur (TRS) -

1) Title 40, Code of Federal Regulations, Part 60, Appendix A - Method 16 or 60.8B.

2) Coulometric titration by method specified in NCASI Atmospheric Quality Improvement Technical Bulletin Number 91. (January, 1978.)

3) Or any other equivalent method.

Revise the first part of 22.6 to read as follows:

22.6 Organic Compounds Water Separation.

22.6.1 Water Separators-Volatile Organic Compounds. Single or multiple compartment volatile organic compound water separators which receive effluent water from any equipment processing, refining, treating, storing or handling volatile organic compounds and emit greater than one hundred tons per year of regulated hydrocarbons (uncontrolled) shall be equipped with one of the following vapor loss control devices properly installed in good working order and in operation....

a) A container having all openings sealed and totally enclosing the liquid contents. All gauging and sampling devices will be gas-tight except when gauging or sampling is taking place.

b) A container equipped with a floating roof, consisting of a pontoon type, double deck type roof, or internal floating cover which rests or floats on the surface of the contents and be equipped with a closure seal or seals to close the space between the roof edge and container wall. All gauging and sampling devices will be gas-tight except when gauging or sampling is taking place.

c) A container equipped with a vapor disposal system capable of processing such organic vapors and gases so as to prevent their emission to the atmosphere and with all container gauging and sampling devices gas-tight except when gauging or sampling is taking place.

d) Other equivalent equipment or means as may be approved by the Technical Secretary. This subsection does not apply to oil field separators.

Add Section 22.6.2 as follows:

22.6.2 Water Separators - Non Volatile Organic Compounds. Single or multiple compartment water separators which receive effluent water from any equipment processing, refining, treating, storing or handling organic compounds with a vapor pressure less than 1.5 psia (at actual conditions in separator) and emit greater than one hundred tons per year of regulated hydrocarbons (uncontrolled) shall be equipped with one of the following vapor loss control devices properly installed in good working order and in operation on the forebays:

(a) A cover having all openings sealed and totally enclosing the liquid contents: All gauging and sampling devices will be gas tight except when gauging or sampling is taking place.

(b) A floating roof, consisting of a pontoon type, double deck type roof, or internal floating cover which rests or floats on the surface of the contents and is equipped with a closure seal or seals to close the space between the roof edge and container wall. All gauging and sampling devices will be gas-tight except when gauging or sampling is taking place.

(c) Vapor disposal system capable of processing such organic vapors and gases so as to prevent their emission to the atmosphere and with all container gauging and sampling devices gas-tight except when gauging or sampling is taking place.

(d) Other equivalent equipment or means as may be approved by the Technical Secretary. This Subsection does not apply to oil field separators.

In Section 22.10 revise the second sentence to read as follows: ...Sources emitting other organic compounds may be considered for exemption by the Commission if their control causes hardship....

Add the following Subsection 23.4.3 to read:

23.4.3 Total Reduced Sulfur Emissions. Emission of Total Reduced Sulfur (TRS) from existing sources specified below shall not exceed the following limits:

(1) Kraft recovery furnaces corrected to eight percent oxygen by volume:

a. New design straight kraft recovery furnaces, five parts per million (ppm).

b. Old design straight kraft recovery furnaces, twenty ppm.

c. Cross-recovery furnaces, twenty-five ppm.

d. Recovery furnaces constructed prior to 1960: The department may establish emission limitations different from those specified above for the remaining useful life of the unit. The emission limit established for each effected furnace will reflect the lowest levels of TRS emissions consistently achievable utilizing best practicable technology.

(2) Digester systems, five ppm.

(3) Multiple-effect evaporator systems, five ppm.

(4) Lime kilns, corrected to ten percent oxygen by volume, twenty ppm.

(5) Condensate stripper systems, five ppm.

(6) Smelt dissolving tanks, 0.0084 grams per kilogram black liquor solids fired. Compliance with the particulate emission limits of Section 23.4.1 (2) by a scrubbing device employing fresh water as the scrubbing medium make-up will be accepted as evidence of adequate TRS control on smelt dissolving tanks.

Emission limits are given in terms of twelve-hour averages. For recovery furnaces, one percent, and for lime kilns, two percent of all twelve-hour TRS averages per quarter year above the specified level, under conditions of proper operation and maintenance, in

the absence of start-ups, shut downs and malfunctions, are not considered to be violations of the emission limitation. These are not running averages, but are instead for discrete contiguous twelve-hour periods of time.

23.4.3.1 In any facility with multiple sources subject to this Section, alternative TRS emission limits from individual sources shall be established upon request, using the "Bubble Concept," provided that the total emissions from all the regulated sources do not exceed those permitted above.

23.4.3.2 The Department may establish alternative limits consistent with the purposes of this Section.

23.4.3.3 Compliance: Effected sources shall achieve final compliance with the provisions of Subsection 23.4.3 as expeditiously as practicable but not more than six years from the effective date of this subsection of the regulations.

4.99 Graphic Arts (Printing). The formation of words, designs and pictures, usually by a series of application rolls each with only partial coverage.

4.100 Packaging Rotogravure Printing. The printing upon paper, paper boards, metal foil, plastic film, and other substrates, which are, in subsequent operations, formed into containers and labels for articles to be sold.

4.101 Publication Rotogravure Printing. The printing upon paper which is subsequently formed into books, magazines, catalogues, brochures, directories, newspaper supplements, and other types of printed materials.

4.102 Flexographic Printing. The application of words, designs and pictures to a substrate by means of a roll printing technique in which both the pattern to be applied is raised above the printing roll and the image carrier is made of rubber or other elastomeric materials.

4.103 Vapor-Tight. Not capable of allowing the passage of gases at the pressures encountered.

4.104 Pharmaceutical Manufacturing Facility. Any facility which manufactures pharmaceutical products by chemical syntheses.

4.105 Particleboard is a manufactured board made of individual wood particles which have been coated with a binder and formed into flat sheets by pressure. Particleboard used as furniture component is not covered under this definition.

4.106 Thin particleboard is particleboard with a nominal thickness of ¼ inch or less. (Nominal ¼" is from 0.210" to 0.265").

4.107 Class II finish. A finish which complies with the requirements of NBS Voluntary Product Standard PS 59-73.

4.108 Dry cleaning facility. A facility engaged in the cleaning of fabrics in an essentially non-aqueous solvent by means of one or more washes in solvent, extraction of excess solvent by spinning and drying by tumbling in an air stream. The facility includes but is not limited to any washer, dryer, filter and purification systems, waste disposal systems, holding tanks, pumps, and attendant piping and valves used in this service.

4.109 Production equipment exhaust system. A device for collecting and directing out of the work area VOC fugitive emissions from reactor openings, centrifuge opening and other vessel openings for the purpose of protecting workers from excessive VOC exposure.

4.110 Heat sensitive material. Materials which cannot be exposed to temperatures greater than 80° to 95°C (180° to 200°F).

4.111 Transfer efficiency. The portion of coating which is not lost or wasted during the application process expressed as percent.

4.112 Printed panels. Panels whose grain or natural surface is obscured by fillers and basecoats upon which a simulated grain or decorative pattern is printed.

4.113 Hardwood plywood. Plywood whose surface layer is a veneer of hardwood.

4.114 Natural finish hardwood plywood panels means panels

whose original grain pattern is enhanced by essentially transparent finishes frequently supplemented by fillers and toners.

4.115 Hardboard is a panel manufactured primarily from inter-felted lignocellulosic fibers which are consolidated under heat and pressure in a hot-press.

4.116 Low organic solvent coating (LOSC) coating which contain less organic solvent than the conventional coatings used by the industry. Low organic solvent coatings include water-borne, higher solids, electrodeposition and powder coatings.

6.3.8 A statement that any proposed new or modified major stationary source as per Section 173 of the Federal Clean Air Act as amended August 1977 in an area which has been designated as "nonattainment" by the Environmental Protection Agency will be built or modified to achieve the lowest achievable emission rate (LAER) as defined by Section 171 of the Federal Clean Air Act as amended August 1977. In addition, the owner or operator of such proposed new or modified source will demonstrate that all major stationary sources owned or operated by such person (or by any entity controlling, controlled by, or under common control with such person) in Louisiana is in compliance with all emission limits and standards under the Federal Clean Air Act or is on a schedule of actions, officially adopted by the Commission, to achieve compliance. Such demonstration shall be evidenced by the owner or operator furnishing the following certification:

All existing major stationary sources owned and operated by the applicant in Louisiana, which are subject to a final court judgement or final EPA order or final Louisiana Air Control Commission enforcement action entered as a result of the alleged non-compliance of such sources with an emission limitation or standard under the Clean Air Act, are now in compliance with all such judgements or orders including, without limitation, any approved compliance schedules which are federally enforceable contained therein. This certification is based upon a reasonable inquiry of those employees of applicant who have operational responsibility for compliance with such emission limitations and standards.

If owner or operator is not able to make the affirmations specified in Section 6.3.8, a permit cannot be issued.

* * * *

Revise the first sentence of Section 22.3 (a) to read as follows:

22.3...(a) A floating roof, consisting of a pontoon type, double deck type roof or internal floating cover, which will rest or float on the surface of the liquid contents and can be equipped with a closure seal or seals to close the space between the roof edge and tank wall...

* * * *

Revise 22.9.2 to read: Surface Coating Industries. No person may cause, suffer, allow or permit volatile organic compound (VOC) emissions from the surface coating of any materials affected by Regulation 22.9.2 (a) through (j) to exceed the emission limits as specified in the regulation.

Add 22.9.2 (i) reading: Surface Coating of Miscellaneous Metal Parts and Products. The following emission limits shall apply:

	VOC Emission Limitation	
	lbs per gal of coating (minus water)	kg per liter of coating (minus water)
Clear Coat	4.3	0.52
Air or forced air-dried items (not oven dried)	3.5	0.42
Frequent color change and/or large numbers of colors applied, or first coat on un-treated ferrous substrate	3.0	0.36
Outdoor or harsh exposure		

or extreme performance characteristics	3.5	0.42
No or infrequent color change, or small number of colors applied		
(1) Powder Coating	0.4	0.05
(2) Other	3.0	0.36

These limits do not apply to operations covered in (a) to (h) herein or exterior coating of aircraft, auto refinishing, exterior coating of marine vessels and auto customizing topcoating (processing less than 35 vehicles per day)

Add 22.9.2 (j) reading: Factory Surface Coating of Flat Wood Paneling. The following emission limits shall apply:

	VOC Emission Limitation	
	lbs per 1000 sq. ft. of coated surface	kg per 100 sq. meter of coated surface
Printed interior wall panels made of hardwood plywood and thin particleboard	6.0	2.9
Natural finish hardwood plywood panels	12.0	5.8
Class II finishes for hardboard paneling	10.0	4.8

Revise Section 22.9.3 (b) to read: If a person wishes to use low solvent technology to meet any of the emission limits specified in Regulation 22.9.2 (a) through (j) and if the technology to be used for any particular application is not now proven but is expected to be proven in a reasonable length of time, he may request a compliance date extension from the Technical Secretary. After consultation with appropriate local governmental agencies, the Technical Secretary may extend the compliance date to no later than December 31, 1982. Compliance date extensions will require progress reports every ninety days, or as directed, to show reasonable progress, as determined by the Technical Secretary, toward technology to meet the specified emission limitation.

Compliance with the emission limitation for any specified surface coating application shall be eighteen months after any progress report indicates the extended compliance date cannot be met with low solvent technology. Final compliance date for any control plan shall be no later than December 31, 1982. Compliance will be determined by the procedure specified in "Control of Volatile Organic Emissions for Existing Stationary Sources. Vol. 2-Surface Coating of Cans, Coils, Paper, Fabric, Autos and Lt. Duty Trucks", (EPA 450/2-77-008); a method approved by the Technical Secretary or certification from the paint manufacturer concerning the solvent makeup of the paint.

* * * *

22.12.4 Exemptions. A vapor degreaser emitting one hundred pounds (forty-five kilograms) or less of VOC in any consecutive twenty-four hour period (uncontrolled) is exempt from the provisions of this section provided the total emissions from all the vapor degreasers at the facility combined are less than one hundred tons/year of VOC, uncontrolled. If these two conditions are not met, the provisions of Section 22.12 must apply.

* * * *

22.19 Perchloroethylene Dry Cleaning Systems

22.19.1 Control Requirements.

A. There shall be no liquid leakage of volatile organic compounds from any perchloroethylene dry cleaning system. Liquid leakage shall be determined by visual inspection of the following sources:

1. Hose connections, unions, couplings and valves.
2. Machine door gasket and seating.
3. Filter head gasket and seating.
4. Pumps.

5. Base tanks and storage containers.
6. Water separators.
7. Filter sludge recovery.
8. Distillation units.
9. Divertor valves.
10. Saturated lint from lint basket.
11. Cartridge filters.

B. Vaporized perchloroethylene shall be handled in vapor-tight equipment and transfer lines.

C. The dryer exhaust must be vented through a carbon adsorber or equivalent control system for a vented solvent concentration of 100 ppm or less before dilution as determined by a method approved by the Technical Secretary or by utilizing equipment which has already been shown to meet this limitation.

D. Filter and distillation wastes.

1. The residue from any diatomaceous earth filter shall be cooked or treated so that wastes shall not contain more than twenty-five pounds of solvent per one hundred pounds of wet waste material (25kg/100kg).

2. The residue from a solvent still shall not contain more than sixty pounds of solvent per one hundred pounds of wet waste material (60kg/100kg).

3. Filtration cartridges must be drained in the filter housing for at least twenty-four hours before being discarded. The drained cartridges should be dried in the dryer tumbler after draining if at all possible.

4. Any other filtration or distillation system can be used if equivalency to these guidelines is demonstrated to the Technical Secretary. For purposes of equivalency demonstration, any system reducing waste losses below one pound solvent per one hundred pounds of clothes cleaned (1kg/100kg) will be considered equivalent.

5. The amount of solvent in filter and distillation wastes shall be determined by utilizing the test method described by the American National Standards Institute in the paper, "Standard Method of Test for Dilution of Gasoline-Engine Crankcase Oils."

22.19.2 Exemptions.

A. Perchloroethylene dry cleaning facilities are exempt from Section 22.19.1 where an adsorber cannot be accommodated because of inadequate space or where no, or insufficient, steam capacity is available to desorb adsorbers. Documented evidence must be presented to the Louisiana Air Control Commission. Any exemption granted shall be confirmed in writing.

B. Any coin operated perchloroethylene dry cleaning facility is exempted.

C. Any perchloroethylene dry cleaning facility which has a potential to emit a combined weight of volatile organic compounds less than five hundred fifty pounds (249kg) in any consecutive twenty-four hour period is exempt from the provisions of this subsection.

22.19.3 Compliance. All affected facilities shall be in compliance with the provisions of Section 22.19.1 as soon as practicable, but no later than December 31, 1982.

* * * *

22.20 Graphic Arts (Printing) by Rotogravure and Flexographic Processes

22.20.1 Control Requirements. No person shall operate or allow the operation of a packaging rotogravure, publication rotogravure, or flexographic printing facility unless volatile organic compound emissions are controlled by one of the following methods:

A. The volatile organic compound fraction of ink, as it is applied to the substrate, contains twenty-five volume percent or less of organic solvent and seventy-five volume percent or more of water.

B. A volatile organic compound adsorption or incineration system having at least ninety percent (by weight) control efficiency across the control device, which can be demonstrated to have an overall capture and abatement reduction of at least:

1. Seventy-five percent where a publication rotogravure process is employed.

2. Sixty-five percent where a packaging rotogravure process is employed.

3. Sixty percent where a flexographic printing process is employed.

C. The ink as it is applied to the substrate, less water, contains sixty percent by volume or more of nonvolatile material.

D. This rule applies to affected machines on which both surface coating and printing operations are performed.

22.20.2 Exemptions. A rotogravure or flexographic printing facility which has a potential to emit a combined weight of volatile organic compounds less than five hundred fifty pounds (249kg) in any consecutive twenty-four hour period is exempt from the provisions of Section 22.20.1.

22.20.3 Compliance. All affected facilities shall be in compliance with the provisions of 22.20.1 as soon as practicable, but no later than December 31, 1982. Compliance will be determined by the procedure specified in Appedix A of "Control of Volatile Organic Emissions for Existing Stationary Sources Vol. 2-Surface Coating of Cans, Coils, Paper, Fabric, Autos and Lt. Duty Trucks," (EPA 450/2-77008); A Method approved by the Technical Secretary or certification from the ink manufacturer concerning the solvent makeup of the ink.

* * * *

22.21 Fugitive Emission Control

22.21.1 Control Requirements.

A. No component of any petroleum refinery shall be allowed to leak at a rate which would result in a volatile organic compound concentration exceeding 10,000 parts per million (ppm) when tested in the manner described in appendix B of the OAQPS guideline series: "Control of volatile organic compound leaks from petroleum refinery equipment," (EPA 450/2-78-036).

B. No valve, except safety pressure relief valves, shall be located at the end of a pipe or line containing volatile organic compounds unless the end of such line is sealed with a second valve, a blind flange, a plug, or a cap. Such sealing device may be removed only when the line is in use, for example, when a sample is being taken.

C. The operator of a refinery shall make every reasonable effort to repair a leaking component, as described in Section 22.21.1A. within fifteen days. If the repair of a component would require a unit shutdown, and if the shutdown would create more emissions than the repair would eliminate, the repair may be delayed to the next scheduled shutdown.

22.21.2 Monitoring Requirements. The monitoring of components containing volatile organic compounds shall be performed by the following schedule using the method described in Section 22.21.1 A. (CEPA 450/2-78-036).

A. Monitor with a VOC detection device one time per year (annually) the following equipment items:

1. Pump seals.
2. Pipeline valves in liquid service.
3. Process drains.

B. Monitor with a VOC detection device four times per year (quarterly) the following equipment items:

1. Compressor seals.
2. Pipeline valves in gas service.
3. Pressure relief valves in gas service.

C. Monitor pump seals visually fifty-two times a year (weekly).

D. Monitor promptly with a VOC detection device any pump seal when liquids are observed dripping from the pump seals.

E. Monitor with a VOC detection device any pressure relief valve within seven days after it has vented to the atmosphere.

F. Monitoring is not required on the following equipment items:

1. Pipeline flanges, inaccessible valves, tank valves or check valves (including similar devices not externally regulated),
2. Pressure relief valves in liquid service, and
3. Pressure relief devices which are tied into either a flare header or vapor recovery device.

G. The monitoring schedule of Section 22.21.2 A, B, and C may be modified as follows:

1. After at least two complete annual checks, the operator of a refinery may request in writing to the Louisiana Air Control Commission that the monitoring schedule be revised. This request shall include data that have been developed to justify any modification in the monitoring schedule.

2. If the Technical Secretary determines that there is an excessive number of leaks in any given process area, he may require an increase in the frequency of monitoring for that process area of the refinery.

H. The Technical Secretary may approve an alternate monitoring method if the refinery operator can demonstrate that the alternate monitoring method is equivalent to the method required by this Regulation. Any request for an alternate monitoring method must be made in writing to the Technical Secretary.

22.21.3 Records Requirements.

A. When a leak, as described in Section 22.21.1 A is located, a weatherproof and readily visible tag bearing an identification number and the date the leak is located shall be affixed to the leaking component. The tag may be discarded after the leak is repaired.

B. A survey log shall be maintained by the operator of a refinery which shall include the following:

1. The name of the process unit where the leaking component is located.
2. The name of the leaking component.
3. The stream composition at the leak.
4. The identification number from the tag required by Section 22.21.3A.
5. The date the leak was located.
6. The date maintenance was performed.
7. The date the component was rechecked after maintenance, as well as the instrument reading upon check.
8. A record of VOC detection device calibration.
9. A listing of leaks not repaired until turnaround.
10. A list of the total number of items checked versus the total found leaking.

The operator shall retain the survey log for two years after the latter date specified in Section 22.21.3 B 7 and make said log available to the Technical Secretary upon request.

22.21.4 Reporting Requirements. The operator of a refinery shall, after each quarterly monitoring has been performed, submit a report to the Technical Secretary of the Louisiana Air Control Commission listing all leaks that were located but not repaired within the fifteen day limit. These reports are due the fifteenth day of January, April, July and October. Such report shall include the following:

- A. The name of the unit where the leaking component is located, the date of last unit shutdown.
- B. The name of the leaking component.
- C. The stream composition at the leak.
- D. The date the leak was located.
- E. The date maintenance was attempted.
- F. The date the leak will be repaired.
- G. The reason repairs failed or were postponed. The

operator shall include in this report a signed statement attesting to the fact that all other monitoring has been performed as required by this rule.

H. The list of items awaiting turnaround for repair.

1. The number of items checked versus the number found leaking.

22.21.5 Compliance Schedule. All facilities affected by this regulation shall be in compliance as soon as practicable, but no later than December 31, 1982.

* * * *

22.22 Gasoline Terminal Vapor-Tight Control Procedure

22.22.1 Gasoline Tank Trucks.

A. Gasoline tank trucks and their vapor collection systems shall not sustain a pressure change of more than three inches of water (0.75 kPa) in five minutes when pressurized to eighteen inches of water (4.5 kPa) or evacuated to six inches of water (1.5 kPa) using the test procedure described in Appendix A of the OAQPS Guideline series: "Control of volatile organic compound leaks from gasoline tank trucks and vapor collection systems," December 1978, (EPA-450/278051).

B. All tank trucks must have a sticker displayed on each tank indicating the identification number of the tank and the date each tank last passed the pressure and vacuum test described in Section 22.22.1 A. Each tank must be certified annually and the sticker must be displayed near the Department of Transportation certification plate. Any repairs necessary to pass the specified requirements must be made within fifteen days of failure.

22.22.2 Vapor Collection System.

A. Loading and unloading operations at gasoline terminals shall not produce a reading equal to or greater than 100 percent of the lower explosive limit (LEL, measured as propane) at 2.5 centimeters around the perimeter of a potential leak source as detected by a combustible gas detector using the test procedure described in appendix B of the document referenced in Section 22.22.1 A.

B. Vapor collection and processing equipment shall be designed and operated to prevent tank truck gauge pressure from exceeding eighteen inches of water (4.5 kPa) and prevent vacuum from exceeding six inches of water (1.5 kPa).

C. The gasoline terminal operator shall keep records for two years indicating the last time the vapor collection facility passed the requirements specified in Section 22.22.2 A. Items which required repair in order to pass the specified requirements must also be recorded during the annual test procedure. Any repairs necessary to pass the specified requirements must be made within fifteen days of failure.

D. The monitoring frequency for the vapor collection system may be modified as follows:

1. After at least two annual checks, the terminal operator may request in writing to the Louisiana Air Control Commission that the monitoring frequency be extended. The operator should include data that have been developed to justify less frequent monitoring.

2. If the Technical Secretary determines that there is an excessive number of leaks during any given test by the terminal operator or by a Louisiana Air Control Commission representative, he may require an increase in the monitoring frequency.

22.22.3 Exemptions. All loading and unloading facilities for crude oil and condensate, for ships and barges and for facilities loading or unloading only liquified petroleum gas are exempt from Section 22.22.

22.22.4 Compliance Schedule. All affected facilities shall be in compliance with the provisions of these regulations as soon as practicable, but no later than December 31, 1982.

* * * *

22.23 Pharmaceutical Manufacturing Facilities

22.23.1 Reactors, Distillation Operations, Crystallizers, Centrifuges, and Vacuum Dryers. The owner or operator of a this regulation shall control the volatile organic compound emissions from all reactors, distillation operations, crystallizers, centrifuges and vacuum dryers that have the potential to emit fifteen pounds per day (6.8 kg/day) or more of VOC. Surface condensers or equivalent controls shall be used, provided that:

A. If surface condensers are used, the condenser outlet gas temperature must not exceed:

1. -13°F (-25°C) when condensing VOC of vapor pressure greater than 5.8 psia (40.0 KPA),
2. 5°F (-15°C) when condensing VOC of vapor pressure greater than 2.9 psia (20.0 KPA),
3. 32°F (0°C) when condensing VOC of vapor pressure greater than 1.5 psia (1.0 KPA),
4. 50°F (10°C) when condensing organic compounds of vapor pressure greater than 1.0 psia (7.0 KPA), or,
5. 77°F (25°C) when condensing organic compounds of vapor pressure greater than 0.5 psia (3.50 KPA).

B. If equivalent controls are used, the VOC emissions must be reduced by at least as much as they would be by using a surface condenser which meets the requirements of Section 22.23.1 A.

22.23.2 Air dryers, and production equipment exhaust systems. The owner or operator of a synthesized pharmaceutical manufacturing facility subject to this regulation shall reduce the VOC emissions from all air dryers and production equipment exhaust systems:

1. By at least 90 percent if emissions are 330 lb/day (150 kg/day) or more of VOC; or,
2. To 33 lb/day (15.0 kg/day) or less if emissions are less than 330 lb/day (150 kg/day) of VOC.

22.23.3 Storage and loading controls. The owner or operator of a synthesized pharmaceutical manufacturing facility subject to this regulation shall:

A. Provide a vapor balance system or equivalent control that is at least 90 percent effective in reducing emissions from truck or railcar deliveries to storage tanks with capacities greater than 2,000 gallons that store VOC with vapor pressures greater than 4.1 psia (28.0 KPA) at 20°C and,

B. Install pressure/vacuum conservation vents set at plus or minus 0.03 psi gauge (plus or minus 0.2 KPA) on all storage tanks that store VOC with vapor pressures greater than 1.5 psia (10.3 KPA) at 20°C, unless a more effective control system is used.

22.23.4 Centrifuges, filters, and in-process tank requirements. The owner or operator of a synthesized pharmaceutical facility subject to this regulation shall:

A. Enclose all centrifuges, rotary vacuum filters, and other filters which have exposed liquid surfaces, where the liquid contains volatile organic compounds and exerts a total volatile organic compound vapor pressure of 0.5 psia (3.50 KPA) or more at 20°C.

B. Install covers on all in-process tanks containing a volatile organic compound at any time. These covers must remain closed, unless production, sampling, maintenance, or inspection procedures require operator access.

22.23.5 Volatile organic compound leaks. The owner or operator of a synthesized pharmaceutical manufacturing facility subject to this regulation shall repair all leaks from which a liquid, containing VOC, can be observed running or dripping. The repair shall be completed the first time the equipment is off-line for a period of time long enough to complete the repair.

22.23.6 Exemptions. Any pharmaceutical manufacturing facility which has a potential to emit a combined weight of volatile organic compounds less than 550 pounds (249 kg) in any consecutive twenty-four-hour period is exempt from the provisions of

Section 22.23.

22.23.7 Compliance. All affected persons shall be in compliance with these rules as soon as practicable, but no later than December 31, 1982 as determined by a method approved by the Technical Secretary.

William A. Cherry, M.D., Secretary
Department of Health and Human Resources

RULE

Department of Health and Human Resources Board of Embalmers and Funeral Directors

The following rule was adopted by the Louisiana State Board of Embalmers and Funeral Directors, as being reasonably necessary to enforce the provisions of Title 37, Chapter 10. Rules previously numbered 14, 15, and 16 will become Rules 15, 16, and 17.

Rule 14. Pressure Sales Tactics

The use of pressure sales tactics and/or plans, including but not limited to a bait and switch plan, and/or a sales commission plan by a funeral establishment or by anyone in their employ or by anyone acting on their behalf, in the sale of merchandise or services shall be an unethical and/or deceptive practice.

Lloyd E. Eagan, Secretary
Board of Embalmers and Funeral Directors

RULE

Department of Health and Human Resources Office of Family Security

The Department of Health and Human Resources, Office of Family Security, has adopted a rule that will require the timely submittal by providers of medical claims as follows:

- (1) Rehabilitation Center providers must submit their claims within twelve months from the date of service.
- (2) Laboratory and X-Ray Service Providers must submit their claims within six months from the date of service.
- (3) Medical Transportation Providers must submit their claims within six months from the date of service.

William A. Cherry, M.D., Secretary
Department of Health and Human Resources

RULE

Department of Health and Human Resources Office of Human Development

Editor's Note: The Department of the State Register has chosen not to publish the forms mentioned in these rules. Interested persons may obtain copies of the forms by phoning or writing: Don Fuller, Director, Division of Evaluation and Services, 333 Laurel Street, Room 810, Baton Rouge, Louisiana 70802, (504) 342-4043. The forms are: Form 4-H, (Expanded Income Status Eligibility Determination and Fee Assessment); Form 4-H 1-2, (Explanation of 4-H); "Notification" statement form; Form 800 RC, (OHD-DES Community Respite Care Services Provider Referral Form); 800 RC-1. (Referral for Community Respite Care Services Explanation); Form 801 RC and 801 RC-1. (Provider Monthly Service Delivery Report).

In accordance with the Appropriations Act of the 1979 Louisiana Legislature, and the Louisiana Comprehensive Annual

Service Program Plan for 1979, the Department of Health and Human Resources, Office of Human Development has adopted policies and procedures to implement a program of Community Respite Care Services for handicapped persons and their families. This program represents an effort by the Department of Health and Human Resources, Office of Human Development to meet the need for family support services in order to maintain handicapped persons in their own homes.

Part III—Community Respite Care for Handicapped Persons and Their Families

13-300—Introduction and Objectives.

Rationale. It is widely recognized that the most desirable placement for many handicapped and multi-handicapped persons is in his/her own family home. It must also be recognized that any family providing such care is exposed to psychological and physical stresses which are unique, demanding, and unrelenting. Eventually, unless support services are made available, some families are stressed beyond their capacity to cope, and the result can be an increased risk to the handicapped person of being placed in an environment more restrictive than his current situation.

The Community Respite Care program represents an effort by the Division of Evaluation and Services to meet the need for family support services in order to maintain handicapped persons in their own homes.

Definitions. Community Respite Care Services are family support services which provide short-term relief for families who have the special responsibility of providing ongoing care for a handicapped person living at home.

A handicapped person, for purposes of this policy, is defined as anyone with a physically or mentally disabling condition(s) which, without respite services, could lead to placement in a setting more restrictive than his/her present situation. Examples of disabling conditions for which respite care services would be appropriate are: Moderate or severe mental retardation; autism, other developmental disabilities such as cerebral palsy or epilepsy; and multiple handicaps.

Types of service. Community Respite Care includes substitute care services for all or part of a twenty-four-hour day either in the home (Family Aide Service), or outside the home (Respite Care Out of Home); and Training and Counseling Services (Family Education and Training for the handicapped person and/or other family members).

How Services are Delivered. Office of Human Development/Division of Evaluation and Services (OHD/DES) purchases Community Respite Services for eligible recipients through Title XX contractual agreements with Respite Care providers. See Appendix II for a list of Providers and Contracted Services.

Goal. The goal of the Community Respite Program is to combine respite services with other community services to help support the family in their effort to maintain the family home as the principal caretaking resource for the handicapped person, thus preventing placement of the handicapped person in a more restrictive setting. This goal will be attained through the use of one or more of the following strategies:

A. To temporarily relieve the stress imposed on families because of the responsibility of caring for a handicapped person by providing temporary in home and/or out-of-home substitute care.

B. To provide a temporary substitute care resource for emergency situations which prevent the relative caretaker(s) from providing adequate care for the handicapped person.

C. To provide the education, training, and counseling necessary to assist the handicapped person and/or mem-

bers of his family to maintain self-sufficiency, and avoid unnecessary institutional placement.

13-305—Eligibility Determination.

A case coordinator shall be designated in each parish as the staff person responsible for the determination of eligibility for respite care cases. All applications/requests for respite care services from all sources (including providers) shall be referred to the designated case coordinator for an eligibility determination. However, when a request for respite care services is made for persons whose DES case is already involved in the client placement process, and is being handled by a case coordinator, the case coordinator already working with the family shall make the respite care eligibility determination.

The determination of eligibility for respite care is a two-fold process. Step 1: A determination must be made as to whether the handicapped person named in the request for services meets the definition provided in 13-300. Step 2: The family must be determined eligible for Title XX social services on the basis of income maintenance status, income status, or without regard to income (WRI) in certain protective services situations.

13.305.1—Eligibility Condition of a Handicapped Person.

In order to be eligible for Community Respite Care Services, the handicapped person in the family requesting services must be a handicapped person as defined in 13-300. To meet this prerequisite to eligibility, the handicapping condition must be disabling to the extent that the handicapped person cannot care for himself/herself or function in an age-appropriate manner; and it may reasonably be expected, that the handicapped person could require placement in a more restrictive setting if respite care services are not provided.

The applicant's word shall be considered acceptable verification of the extent of a handicapped person's disability and its impact on the family unless there is some reason to doubt it. The case coordinator shall attempt to determine the source of any medical diagnosis regarding the handicapped person's condition and record this along with any other pertinent information on the handicap in the case record.

13-305.2—Title XX Eligibility Determination.

The applicant/family shall be determined eligible for Title XX Community Respite Care Services on an individual basis. This determination shall be made by a DES case coordinator, using procedures outlined in Chapter XX, and this section. Form 4 shall be signed by the family member responsible for the handicapped person. If an eighteen year old is unable to sign for himself, the caretaker may sign if there is no legally responsible person. If the handicapped person is eighteen years of age or over, and is not claimed as a dependent for federal income tax purposes, he may be considered a single person family for the purpose of eligibility determination. For families with a handicapped person under the age of eighteen, the family must be determined eligible based on income maintenance status, income status or WRI criteria.

Provision of Respite Care to Income Maintenance and Income Status Eligibles.

A. **Income Maintenance Status Eligibles.** Basic Title XX eligibility criteria for income maintenance status eligibles are contained in 20-605.

B. **Income Status Eligibles.**

1. **Basic Income Status Criteria.** Basic Title XX eligibility criteria for income status eligibles are contained in 20-610. Form 4 shall be completed to determine eligibility or ineligibility for Title XX services by basic income status criteria.

2. **Expanded Income Status Criteria.** Income status eligibility standards have been expanded for respite care services to include persons whose family gross monthly income is more than 57.8 percent, but not greater than 115 percent of the state's median income, adjusted for

family size. The following chart gives the maximum gross monthly incomes allowable. Above these amounts of income, families will not be eligible for Community Respite Care Services.

Family Size	Gross Monthly Income	Family Size	Gross Monthly Income
1	\$ 823	7	\$2,136
2	1,076	8	2,184
3	1,329	9	2,231
4	1,582	10	2,279
5	1,835	11	2,327
6	2,088	12	2,375

For each additional family member above twelve persons add forty-eight dollars to the gross monthly income for a family of twelve.

Form 4-H has been designed as a supplement to Form 4 for applications on persons in this expanded group of income status eligibles.

When the family's gross monthly income falls within the above listed expanded income status range, a fee shall be charged for Community Respite Care Services (see Section 13-309 for policy regarding fees). Formal notification of the responsibility to pay fees, the rate at which fees must be paid, and the procedure for paying fees must be made to the client, using Form 4-H.

Persons determined eligible because their income falls in the expanded income status range of eligibility are eligible for Community Respite Care Services only, and will therefore not receive a Form 4-C. Providers shall be informed of such persons' eligibility and responsibility to pay fees for Community Respite Care by Form 800 RC (Referral for Community Respite Care).

C. Without Regard to Income (WRI).

Community Respite Care shall be available in certain protective services situations without regard to income (WRI). To provide respite care to families WRI, it must be established that Community Respite Care is needed for the following reasons:

1. Handicapped person is currently harmed or threatened with imminent harm through action or inaction of the person(s) responsible for his/her care.
2. The OHD/DES Protective Services Staff is involved in an investigation or is providing on-going protective services to the family on behalf of the handicapped person.

When Community Respite Services are provided WRI, Manual Policy 20-725 (D) must be applied. This policy requires the worker to document in the case record the circumstances which establish that the above child is subject to, or at risk of abuse, neglect, or exploitation. Once the adult or child has been certified, a re-determination of eligibility for Community Respite Services WRI shall be made at least every six months to verify that conditions necessitating protective services still exist. The adult or child is eligible for respite care only if the service plan specifies respite care as a necessary service to remedy or prevent neglect, abuse or exploitation.

D. Group Eligibility.

Group eligibility for Title XX social service shall not be applicable to the provision of Community Respite Care Services. An individual case determination is required to establish that the need for respite care is within the reasons set forth in C above and in 13-305.1.

13-307—Availability of a Title XX Community Respite Services Provider.

The case coordinator shall refer persons eligible for Title XX

Community Respite Services to the provider in the client's region of residence using Form 800 RC. The provider shall determine if their services are appropriate for and adequate to meet the needs of the handicapped person. Community Respite Services will be available only after the provider determines that adequate services can be delivered to the handicapped person. Persons determined to be inappropriate for the services will be so advised by the provider.

The case coordinator shall advise the applicant at the time of eligibility determination that the availability of Community Respite Care Services is contingent upon the regional provider's capacity to provide adequate care and services to the handicapped family member. The case coordinator should screen applicants for Community Respite Care Services in terms of the potential for services being available to the handicapped person and the applicant should be advised if the provider is not available to provide services to their handicapped family member. If the applicant requests an eligibility determination even though the initial screening indicates services will not be available, the applicant will not be refused an opportunity to apply for the services.

13-308—Application and Referral Process.

13-308.1—Non-Emergent Application.

A. When the Referral for Respite Care is Received by a Provider.

When a provider of community respite care services receives a request for these services, he shall refer the applicant to the DES designated case coordinator in the parish of the prospective client's residence, for eligibility determination. The applicant/family shall be responsible for contacting the DES case coordinator for a determination of eligibility for respite care services.

B. When the Request for Respite Care Services is Received by the DES Worker.

When a Division of Evaluation and Services intake worker receives a request for respite care services, he/she shall refer the case to the designated case coordinator for a determination of eligibility.

The DES case coordinator shall make an initial assessment of the request, completing Form 800 RC (Referral for Respite Care Services). The case coordinator shall identify the person needing care, the extent of his/her disability, the impact of the condition on the family, and whether Title XX eligibility has already been established.

If Title XX eligibility has not already been established, the case coordinator shall make the eligibility determination as shown in 13-305. If the applicant is found eligible for Respite Care Services, he/she shall be referred to the Regional Respite Care Provider. If he/she is found ineligible for Community Respite Care Services, the case coordinator and other DES staff shall assist the applicant to meet his need through other available resources.

C. Notification Processes.

The client shall be formally notified by the DES case coordinator of his eligibility or ineligibility for Community Respite Services, using Form 18-S.

The provider shall be notified of an applicant's eligibility for Title XX Community Respite Care Service, and of any responsibility the client/family may have to pay fees for the Respite Care Services received by Form 800 RC.

The provider will in turn notify the DES case coordinator as to whether the agency can deliver the requested service, using Section IV of Form 800 RC.

13-308.2—Application and Referral Process: Emergency Applications. The following are emergency procedures designed to expedite delivery of respite care services to families whose need for Respite Care Out-of-Home or Family Aide Services is both extreme and urgent. These procedures shall not be used to circum-

vent the non-emergent application process described in 13-308.1. Any use of the emergency application process outlined below shall be fully documented in the case record as to need, lack of alternative resources, and the urgency of the situation.

A. **Emergency Defined**—An emergency for purposes of this section is any situation which meets the following criteria: (1) the client is requesting immediate respite care service due to urgent circumstances; and (2) the problem is one which, without respite care, could have the immediate result of causing harm or inadequate care to the handicapped person, or a serious hardship for a member or members of his family. The person taking the application shall use his best judgment in determining whether each situation is an emergent one.

B. **When Emergent Application is Made Directly To a Provider.**

If an applicant requests Respite Care Out-of-Home or Family Aide Services from a provider due to emergent circumstances as defined above, the role of OHD/DES shall be to assist the provider to respond quickly to meet the needs of the handicapped person and his family during the crisis period.

Title XX eligibility determination cannot be waived for families experiencing an emergency, but the following procedure allows for a tentative eligibility determination for the purpose of allowing immediate provider response.

If a provider receives what he feels is an emergency application, and he wishes to claim Title XX funding for the provision of these services he/she should:

1. Make a tentative determination as to whether the disabled person fits the policy definition of a handicapped person, as shown in 13-300, and 13-305.1.

2. Check existing Title XX eligibility by: Viewing 4-C, Medicaid card; and/or checking with DES case coordinator.

3. Complete a Form 4, (if existing Title XX eligibility cannot be confirmed).

4. If the family falls in the fifty-eight to one-hundred-fifteen percent income range, Form 4-H shall be completed, and an explanation of the responsibility to pay fees made.

5. If the client/family appears to be eligible, services may be delivered immediately. The provider must understand that should the client/family prove to be ineligible for Title XX Community Respite Care Services, Title XX funds shall not be made available for this service.

6. Give an explanation to the family of the necessity for forwarding the application to DES for a final determination of Title XX eligibility and fees (if applicable).

7. The provider shall prepare a written explanation of the need for emergency application and referral procedures, and submit this along with Form 4 and 4-H (if applicable) to the appropriate DES case coordinator not later than the second working day following the initial day of service delivery. If Title XX eligibility was verified by viewing the client's 4-C or Medicaid card, the provider shall include a statement to this effect in the written explanation.

8. The case coordinator, on receipt of the emergency application, etc. shall check the application for accuracy. If no errors are noted, the client/family is to be considered eligible for Title XX Community Respite Care Services. The family and the provider shall be notified. The family is notified by 18-S. The provider is notified using Form 800 RC (Referral for Respite Care Services).

If the client/family is determined by the case coordinator to be ineligible for Title XX Community Respite Care Services, the provider shall be contacted immediately by telephone to inform him that Title XX funds

cannot be used to pay for the services. This call shall be confirmed in writing to the provider, and filed in the case record. The client/family shall be notified via Form 18-S.

C. **When Emergent Application is Made to DES.**

The case coordinator responsible for the case shall make every effort to expedite the application and referral process in situations which are emergencies as defined in A above. The Case Coordinator shall:

1. Determine whether the request constitutes an emergency.

2. Determine if the client/applicant is already Title XX eligible.

3. Contact the provider by telephone and relay the information from 1 and 2 above.

4. Refer the client to the Provider as soon as possible. An explanation shall be made of the possibility that the provider will not have the services needed to meet the needs of the handicapped person/family. The client shall be given an explanation of the need for a future Title XX eligibility and fee determination.

5. Document the emergency referral and the reasons for making it in the case record.

6. After Form 4 and 4-H (where applicable) are received from the provider, determine eligibility for Title XX Community Respite Care Services, and the rate of fees payable (if applicable).

7. Notify family of their eligibility or ineligibility (Form 18-S) and if applicable, of their responsibility to pay fees, and the rate at which fees will be charged (Form 4-H).

8. Notify the Provider using Form 800 RC regarding the family's eligibility and responsibility to pay fees.

The Provider may accept the DES referral if the agency is willing to accept the responsibility for providing services to the handicapped person. When the provider agrees to deliver services on an emergency basis prior to the Title XX eligibility determination, the provider shall:

1. Take a Title XX application as described in B above, on cases not already Title XX eligible.

2. Provide the service if the client/family situation is appropriate for their agency services.

3. Refer for eligibility determination to DES case coordinator, using Form 4 and 4-H (if applicable).

13-309—Fees.

When an eligible family's gross monthly income is more than 57.8 percent of the state's median income for a family of four, adjusted for size, a fee shall be charged for the various Community Respite Care Services in accordance with a sliding scale established by DHHR. The fee schedule (see Part III, Appendix I) is based on service delivered, family size, and family yearly gross income.

DES shall be responsible for the assessment and collection of fees for Community Respite Care Services. Form 4-H shall be completed by the case coordinator to assess the rate of fee payment for persons responsible to pay a fee for the services, and to notify the responsible client/parent/guardian of his responsibility to pay the fees.

13-309.1—Definitions. For purposes of establishing fees, the following definitions shall apply:

Family—The basic family unit is defined as consisting of one or more adults and children, if any, related by blood, marriage, or adoption, and residing in the same household. Where related adults, other than spouses, or unrelated adults reside together, each will be considered a separate family, unless they are included as part of the family unit for federal income tax reporting purposes. Children living with non-legally responsible relatives, emancipated minors, and children living under the care of unrelated persons will be considered a member of the family, if any, that claims that child as a dependent for federal

income tax purposes. If they are not claimed as a dependent they will be considered a single person family.

Gross Income—The yearly income received from sources identified by the United States Census Bureau in computing the median income and defined in Chapter XX, reference 20-610 C.

Dependent—As used herein, means all persons dependent on the household income as reported to IRS for federal income tax purposes.

13-309.2—General Regulations.

A. Notification and Billing.

1. All income status eligible persons applying for Community Respite Care Services with incomes above 57.8 percent and less than 115 percent shall be promptly notified of their responsibility to pay a fee for the services they receive. The case coordinator shall discuss the requirement of the fee payment, the methods of computation of payments and the rates at which fees are computed. This discussion shall include the information that the hourly fee will be charged for each hour of service received for Family Aide Service, Family Education and Training, and Respite Care Out of Home Services.

2. The client/parent/guardian will be required to pay fees as billed. Billing for services received will be sent by state office to the client or responsible person.

B. Failure to Provide Information. If an individual in the appropriate income range is responsible for fees for services rendered, and he refuses to supply the information necessary for a determination of the fee, the individual may be determined ineligible for Community Respite Care Services.

C. Reporting Changes in Information. The individual responsible for fees for services rendered is also responsible for reporting to the case coordinator any changes in income, family composition, or other information which may result in an adjusted fee.

D. Periodic Review. A periodic check, no less than annually, shall be made by the case coordinator with the individual responsible for fees, in order to make any adjustments necessary in the amount of contributions.

13.309.3—Procedures for Determining the Fee Amount. At the time of certification for Title XX Services, the case coordinator shall determine whether the family's Title XX eligibility is based on income status above 57.8 percent but less than 115 percent. If so, an explanation shall be made regarding fees as described above, and Form 4-H shall be completed.

A. Persons Responsible for Payment of Fees.

The person responsible for paying the fees for Community Respite Services shall be the parent, guardian, or tutor in the case of a handicapped client under the age of eighteen, unless someone else claims the client child as a dependent for federal income tax purposes in which case it shall be that person's responsibility to pay the fees.

If the handicapped person (client) is eighteen or over he shall be responsible for the fees based on his individual income unless he is claimed by someone else as a dependent for income tax purposes, in which case the claimant becomes responsible for the fees, based on the claimant's family income.

B. Verification of Income and Family Size.

The declaration method of verification of income that is currently being used for Title XX eligibility will also be used when Community Respite Services are being considered. The client shall be the primary source of information and shall present information regarding his family composition and his family monthly gross income.

DHHR Form 4, Application and Eligibility Determination, shall be used to gather and record the necessary information. Form 4 is being revised to reflect recent changes. In the

meantime include in Part III, B under comments, the amount of state and federal income tax paid by the family during the previous calendar year.

When the case coordinator has reason to doubt the applicant's statements because they are conflicting or insufficient, he may require verification of the issue in question.

In securing information from the applicant, the case coordinator shall inquire about the receipt of each type of income identified on the application Form 4. The careful consideration of all sources of applicable income is important in order to establish and maintain a valid assessment of the client/parent/guardian's ability to pay.

C. Steps in the Determination of the Fees to be Assessed.

1. Determine the family size, see definition of family (13-309.1) of the responsible person's family, using Form 4 and 4-H.

2. Determine the gross income of the family unit, using Form 4 and 4-H.

3. Refer to the fee schedule for the various Community Respite Care Services, and record the rate per hour for services on Form 4-H. Explain to the client/family that whenever the various kinds of service are received from the provider, they will be charged at the rate shown for services.

4. Officially notify the responsible person of their responsibility to pay fees as billed and the rate to be charged by sending or giving them a copy of Form 4-H. The provider shall be notified that his is a fee-related case by completion of Section III (Eligibility and Fee Information) of Form 800 RC.

5. After the case coordinator has been notified by the provider that the client has been accepted for Community Respite Care Services, notify DES State Office of the rate at which fees must be charged by submitting a copy of Respite Care Fee Assessment Form 4-H to the DES State Office, Attention: Respite Care Fee Section.

6. Providers will be responsible for reporting to DES State Office the services used by the client/family on a monthly basis, using Form 801 RC (Provider Monthly Service Report).

7. Each month the DES State Office shall multiply the rate for service times the amount of service reported delivered by the provider, deduct any payments received from the responsible person, and send a monthly bill at the end of month following the month in which services were received.

8. Exceptions to the payment of fees can only be made with the approval of the DES State Office, and then only for documented reasons such as excessive emergency or medical costs, or family hardships resulting in unusual and unexpected expenses.

13-309.4—Maximum Amounts of Fees. In no case can the fee for any given service exceed the cost of the service being purchased or provided.

13-310—Priorities for Service.

In many cases, the number of applications for services will exceed the availability of services. Priorities have been established to follow in determining who will receive services based on the greatest need for service. Emergent situations shall have the greatest priority. In addition, a more severely handicapped person will be given priority for services.

The following is an outline of the three general Community Respite Care Service areas. Under each service area is a partial listing of client/family situations which may require Community Respite Services, in order of the priority which shall be assigned to them by a worker deciding which situations shall receive services first:

Service: Respite Care Out-of-Home.

1. Crisis or emergency with the family or handicapped person. Examples are an illness, a hospitalization, or a death

in the family.

2. A family who is requesting or considering placement of a handicapped person in setting more restrictive than their own home.

3. A planned rest, activity or vacation for a family with a handicapped person living in the home.

Service: Family Aide Services.

1. Crisis or emergency with the family or handicapped person. Examples are an illness, a hospitalization, or a death in the family.

2. A family who is requesting or considering placement of a handicapped person in setting more restrictive than their own home.

3. A planned rest, activity or vacation for a family with a handicapped person living in the home.

Service: Family Education and Training. (If the service is available to the client or family through another community resource, the client or family will be referred to that service.)

1. Prevention or delay of an imminent placement in a setting more restrictive than the person's own home.

2. To prevent a deterioration of the handicapped person's condition or family situation due to the lack of appropriate care.

3. To provide services to the client and the family when a handicapped person is returning home from a restrictive setting.

4. To provide services at or near the time of the diagnosis of a handicapping condition.

13-311—Limit on Service Usage.

Respite care out of home services shall not extend beyond thirty consecutive days of service under ordinary circumstances.

It shall be the responsibility of the Provider-of-Respite-Services to make certain that this limit on service usage is not violated.

The DES case coordinator shall advise the client/family of this limit, and shall not make any service plan which exceeds the thirty consecutive day limit.

In exceptional circumstances, services may be extended beyond the thirty consecutive day limit with prior state office approval.

13-312—Division of Responsibilities.

A. OHD-DES Worker's Responsibilities.

1. Explaining the Community Respite Services which are available to handicapped persons and helping the family determine whether they are interested in receiving respite services.

2. Determining the client and family's eligibility for Title XX services, and establishing their eligibility for Community Respite Services.

3. Determining the amount of the fee for services for families which are responsible to pay a fee for the services.

4. Informing the family, the provider, and state office of the family's responsibility for and amount of the fee per unit of service.

5. Interpreting to the family the agency's policies and procedures regarding Community Respite Services.

6. Referring eligible families to the Community Respite Services provider in their region.

7. Developing a service plan with the handicapped person and his/her family in terms of the use of Community Respite Services and any additional services for which the family is eligible and which will support the handicapped person and his/her family in their effort to maintain themselves as a family unit.

8. Certifying the client for social services in the SSMS by Form 14-F or Form 14-M and reporting the services delivered to the clients by the worker.

9. Maintaining the service case record on a current basis. The service plan along with information regarding service delivery, documentation of eligibility, and pertinent information regarding work with the handicapped person and his/her family shall be recorded in the service case record.

10. Re-determination of eligibility for Title XX Community Respite Services annually or when client or the family's situation changes.

11. Notifying the client and the family by Form 19-S if they are no longer eligible for Community Respite Care Services.

B. Client and Family's Responsibilities:

1. Cooperating with the eligibility determination process of OHD/DES.

2. Contacting the Community Respite Services provider to request services once eligibility has been established.

3. Cooperating with the intake process and procedures with the Community Respite Care Services provider.

4. Paying fees for services received (when applicable).

C. Community Respite Services Providers Responsibilities:

1. Referring non-emergent requests for Community Respite Services to OHD/DES for determination of Title XX eligibility.

2. Assessing requests for Community Respite Services from Title XX eligible clients and families referred to them by OHD/DES in terms of their capacity to provide adequate care to the handicapped person.

3. Informing applicants for Community Respite Services regarding their decision as to whether their services will be available to the applicant.

4. Informing OHD/DES regarding their acceptance or denial of Community Respite Services to clients and families referred by OHD/DES.

5. Maintaining records with pertinent information regarding the handicapped person and his/her family, and information regarding the dates, the units of service and the types of Community Respite Services delivered to each client.

6. Reporting to the Social Service Management System the units and dates of service delivered to each client.

7. Reporting to OHD/DES the dates, the units of service, and the types of service delivered to clients with the responsibility to pay fees for the services.

8. Developing a plan for the delivery of Community Respite Services with each handicapped person and his/her family.

9. Providing adequate care and services to each handicapped person and his/her family which the provider accepts for services.

10. Maintaining licensing and/or certification standards which may be required by the Office of Licensing and Regulation.

11. Assessing potential eligibility for Title XX Community Respite Services in emergency situations with follow-up by referring the family to OHD/DES for the final determination of eligibility and fees.

12. Complying with all Title XX contract requirements.

Part III:

Appendix I—Fee Schedule

**Respite Care: Out of Home, Family Aide Services,
and Family Education and Training Services Fee Schedule
Rate per Hour**

The following fee schedule applies to the persons eligible by category
income status and the geographic area is statewide.

Yearly Gross Income	FAMILY SIZE					
	1	2	3	4	5	6
4957- 5981	.05					
5982- 6491	.05					
6492- 7000	.06	.05				
7001- 8015	.07	.06				
8016- 9032	.08	.07	.06			
9033- 9539	.08	.07	.06			
9540- 9876	.09	.08	.07	.06		
9877-10,048		.08	.07	.06		
10,049-11,063		.09	.08	.07		
10,064-11,572		.09	.08	.07	.06	
10,573-12,080		.10	.09	.08	.07	
12,081-12,587		.10	.09	.08	.07	
12,588-12,912		.11	.10	.09	.08	.07
12,913-13,096			.10	.09	.08	.07
13,097-14,112			.11	.10	.09	.08
14,113-15,125			.12	.11	.10	.09
15,126-15,948			.13	.12	.11	.10
15,949-16,144				.12	.11	.10
16,145-17,160				.13	.12	.11
17,161-18,176				.14	.13	.12
18,177-18,984				.15	.14	.13
18,985-19,192					.14	.13
19,193-20,208					.15	.14
20,209-21,224					.16	.15
21,225-22,020					.17	.16
22,021-22,240						.16
22,241-23,256						.17
23,257-24,272						.18
24,273-25,056						.19

For every increment of \$1,016 in additional income, the fee for the service increases \$.01 per hour. If the number of dependents exceeds six, decrease the appropriate figure in column six by \$.01 for each extra dependent. In any case, Title XX eligibility for this service ceases when the income level reaches 115 percent of the state median income adjusted for family size.

**Appendix II
Providers and Services List**

Region	Provider	Type Service
VII Shreveport	Caddo-Bossier Association for Retarded Citizens	1) Family Aide Services 2) Respite Care Out of Home
II Baton Rouge	Baton Rouge Association for Retarded Citizens	1) Respite Care Out of Home

William A. Cherry, M.D., Secretary
Department of Health and Human Resources

RULES

Department of Natural Resources Office of Conservation

Editor's Note: The Office of Conservation has reserved several subchapter, part, and section numbers which the Department of the State Register has omitted from the text of these rules. The reserved numbers are

- Subchapter A,
 - Part 100, Sections 100.1, 100.2, 100.12.
 - Part 101, Sections 101.1, 101.2, 101.4, 101.5.
 - Part 105, Sections 105.1, 105.2, 105.5.
 - Part 107, Sections 107.1, 107.5.
- Subchapter B, (all).
- Subchapter C,
 - Part 133, (all).
- Subchapter D,
 - Parts 140, 141, 142, 143, 144, 145.
- Subchapter E, (all).
- Subchapter F,
 - Part 160, Sections 160.1, 160.2.
 - Part 161, Sections 161.1, 161.2, 161.5.
 - Part 162, Sections 162.1, 162.5.
 - Part 164, Sections 164.1, 164.2.
 - Part 165, (all).
 - Part 169, (all).
- Subchapter G,
 - Part 170, Sections 170.1, 170.2, 170.5, 170.6.
 - Part 171, Sections 171.1, 171.2, 171.13, 171.17.
 - Part 176, Section 176.1.
 - Part 178, Sections 178.1, 178.2.
 - Part 179, Sections 179.1, 179.2.
 - Part 180, Sections 180.1, 180.2.
 - Part 182, (all).
 - Part 183, (all).
 - Part 184, (all).
 - Part 185, Sections 185.1, 185.2, 185.11, 185.12, 185.14, 185.18, 185.19, 185.20, 185.22.
 - Part 186, Sections 186.1, 186.2, 186.5.
 - Part 188, Sections 188.1, 188.2, 188.5.
- Subchapter H, (all).
- Subchapter I, (all).
- Subchapter J,
 - Part 200, Sections 200.1, 200.2, 200.5.
 - Part 205, Section 205.1.
 - Part 206, Section 206.1.
 - Part 207, Section 207.1.
 - Part 208, Section 208.1.
 - Part 209, (all).
- Subchapter K,
 - Part 210, Sections 210.1, 210.2, 210.11.
 - Part 215, Sections 215.1, 215.2.
 - Part 216, Sections 216.1, 216.2, 216.55, 216.79, 216.88.
 - Part 217, (all).
 - Part 218, (all).
 - Part 219, (all).
 - Part 222, (all).
 - Part 223, Section 223.1, 223.2.
 - Part 227, Section 227.1.
- Part 228, (all).
 - Part 240, (all).
 - Part 242, Section 242.1.
 - Part 243, Section 243.1.
- Subchapters L, M, N, O, P, Q, R, (all).
 - Part 245, Sections 245.1, 245.2.

Surface Mining Regulations Subchapter A—General Part 100—General

100.3 Authority. The Commissioner is authorized to administer the requirements of the Act and regulations promulgated thereunder.

100.4 Responsibility.

(a) The Commissioner is responsible for exercising the authority delegated to him under the Act, including the following:

(1) Designation of lands as unsuitable for all or certain types of surface coal mining operation under Section 922 of the Act and as unsuitable for noncoal mining under Section 601 of the federal act; and

(2) Authority to approve or disapprove mining plans to conduct surface coal mining and reclamation operations on state lands.

(b) The Commissioner is responsible for consulting with state land-managing agencies and agencies with responsibility for natural and historic resources on public lands on actions which may have an effect on their responsibilities.

100.5 Definitions. As used in these regulations, the following terms have the specified meaning, except where otherwise indicated:

(1) Acid drainage—Water with a pH value of less than 6.0, and in which total acidity exceeds total alkalinity, discharged from an active, inactive, or abandoned surface coal mine and reclamation operation, or from an area affected by surface coal mining and reclamation operations.

(2) Acid-forming materials—Earth materials that contain sulfide minerals or other materials which, if exposed to air, water, or weathering processes, form acids that may create acid drainage.

(3) Act—The Louisiana Surface Mining and Reclamation Act, R.S. 30:901-32.

(4) Adjacent area—Land located outside the affected area, permit area, or mine plan area, depending on the context in which "adjacent area" is used, where air, surface or ground water, fish, wildlife, vegetation, or resources protected by the Act may be adversely impacted by surface coal mining and reclamation operations.

(5) Affected area—With respect to surface mining activities, any land or water upon or in which those activities are conducted or located.

(6) Agricultural use—The use of any tract of land for the production of animal or vegetable life.

(7) Applicant—A person applying for a permit.

(8) Application—The documents and other information filed with the Commissioner of Conservation for the issuance of an exploration, development operations, or surface mining and reclamation operations permit.

(9) Approximate original contour—That surface configuration achieved by backfilling and grading of the mined area so that the reclaimed area, including any terracing or access roads, closely resembles the general surface configuration of the land prior to mining and blends into and complements the drainage pattern of the surrounding terrain, with all highwalls and spoil piles eliminated; water impoundments may be permitted where the Commissioner determines that they are in compliance with Section 915(b)(8) of this Chapter.

(10) Aquifer—A zone, stratum, or group of strata that can store and transmit water in sufficient quantities for a specific use.

(11) Best technology currently available—Equipment, devices, systems, methods, or techniques which will:

(a) Prevent, to the extent possible, additional contributions of suspended solids to stream flow or runoff outside the permit area, but in no event result in contributions of suspended solids in excess of requirements set by applicable state or federal laws.

(b) Minimize, to the extent possible, disturbances and ad-

verse impacts on fish, wildlife and related environmental values, and achieve enhancement of those resources where practicable. The term includes equipment, devices, systems, methods, or techniques which are currently available anywhere as determined by the Commissioner, even if they are not in routine use. The term includes, but is not limited to, construction practices, siting requirements, vegetative selection and planting requirements, animal stocking requirements, scheduling of activities and design of sedimentation ponds in accordance with Section 216.46 of these regulations. Within the constraints of the permanent program, the Commissioner shall have the discretion to determine the best technology currently available on a case-by-case basis.

(12) Cemetery—Any area of land where human bodies are interred.

(13) Coal—Includes all forms of coal, including lignite.

(14) Coal Exploration, or Exploration Operations—The drilling of test holes or core holes for the purpose of, or related to, the determining of the location, quantity or quality of a coal deposit under a permit to be issued by the Commissioner; and any other coal exploration operations that will substantially disturb the surface and are not otherwise covered by the Act.

(15) Coal mining operations—The business of developing producing, preparing and loading bituminous coal, sub-bituminous coal, or lignite, or of reclaiming the areas upon which such activities occur.

(16) Coal processing plant—A collection of facilities where run-of-the-mine coal is subjected to chemical or physical processing and separated from its impurities. The processing plant may consist of, but need not be limited to, the following facilities: loading facilities; storage and stockpile facilities; sheds, shops and other buildings; water treatment and water storage facilities; settling basins and impoundments; coal processing and other waste disposal areas; roads, railroads and other transport facilities.

(17) Coal processing waste—Earth materials which are combustible, physically unstable, or acid-forming or toxic-forming, which are wasted or otherwise separated from product coal, and slurred or otherwise transported from coal preparation plants, after physical or chemical processing, cleaning, or concentrating of coal.

(18) Commissioner—The Commissioner of Conservation of the State of Louisiana, or such other person or persons who may, from time to time, be designated by the Commissioner to administer and enforce the provisions of the Act and these regulations.

(19) Community or Institutional Building—Any structure, other than a public building or an occupied dwelling, which is used primarily for meetings, gatherings or functions of local civic organizations or other community groups; functions as an educational, cultural, historic, religious, scientific, correctional, mental health or physical health care facility; or is used for public services, including, but not limited to, water supply, power generation or sewage treatment.

(20) Compaction—Increasing the density of a material by reducing the voids between the particles, and generally accomplished by controlled placement and mechanical effort such as from repeated application of wheel, track, or roller loads from heavy equipment.

(21) Cropland—Land used for the production of adapted crops for harvest, alone or in a rotation with grasses and legumes, and includes row crops, small grain crops, hay crops, nursery crops, orchard crops, and other similar specialty crops.

(22) (a) Development operations—All or any part of the process of removing, by power earthmoving equipment, coal or overburden for the purpose of determining coal quality or quantity or coal mining feasibility; provided that, if more than twenty-five thousand tons of coal or ten surface acres of overburden will

be removed, then such operations shall be considered coal mining operations.

(22) (b) Development operations permit—The certification by the Commissioner that the named person may conduct the development operations described in the certification during the term of the development operations permit and in the manner established in the certification.

(23) Director—The Director of the Federal Office of Surface Mining Reclamation and Enforcement.

(24) Disturbed area—An area where vegetation, topsoil, or overburden is removed or upon which topsoil, spoil, coal processing waste, or noncoal waste is placed by surface coal mining operations. Those areas are classified as disturbed until reclamation is completed and the performance bond or other assurance of performance required by Subchapter J of this Chapter is released.

(25) Diversion—A channel, embankment, or other man-made structure constructed to divert water from one area to another.

(26) Downslope—The land surface between the projected outcrop of the lowest coalbed being mined along each highwall and a valley floor.

(27) Embankment—An artificial deposit of material that is raised above the natural surface of the land and used to contain, divert, or store water, support roads or railways, or for other similar purposes.

(28) Employee:

(a) Any person employed by the Office of Conservation who performs any function or duty under the Act.

(b) Advisory board or commission members and consultants who perform any function or duty under the Act, if they perform decision-making functions for the Office of Conservation under the authority of state law or regulations. However, members of advisory boards or commissions established in accordance with state law or regulations to represent multiple interests are not considered to be employees.

(29) Ephemeral stream—A stream which flows only in direct response to precipitation in the immediate watershed or in response to the melting of a cover of snow and ice, and which has a channel bottom that is always above the local water table.

(30) Exploration operations permit—A permit issued by the Commissioner to an applicant to conduct coal exploration as that term is defined in these regulations.

(31) Extraction of coal—The extraction of coal which is necessary to enable the construction to be accomplished. For the purposes of this Part, only that coal extracted from within the right-of-way, in the case of a road, railroad, utility line or other such construction, or within the boundaries of the area directly affected by other types of government-financed construction, may be considered incidental to that construction. Extraction of coal outside the right-of-way or boundary of the area directly affected by the construction shall be subject to the requirements of the Act and the regulations.

(32) Federal Act—The Surface Mining Control and Reclamation Act of 1977 (P.L. 95-87).

(33) Federal lands—Any land, including mineral interests, owned by the United States, without regard to how the United States acquired ownership of the lands or which agency manages the lands, but does not include Indian lands.

(34) Federal land program—A program established by the Secretary pursuant to Section 523 of the federal Act to regulate surface coal mining and reclamation operations on federal lands.

(35) Federal Office—The Office of Surface Mining Reclamation and Enforcement established under Title II of the federal Act.

(36) Fragile lands—Geographic areas containing natural, ecologic, scientific or aesthetic resources that could be damaged

or destroyed by surface coal mining operations. Examples of fragile lands include: valuable habitats for fish or wildlife, critical habitats for endangered or threatened species of animals or plants, uncommon geologic formations, national natural landmark sites, areas where mining may cause flooding, environmental corridors containing a concentration of ecologic and aesthetic features, areas of recreational value due to high environmental quality, and buffer zones adjacent to the boundaries of areas where surface coal mining operations are prohibited under Section 922 of the Act and Section 161 of these regulations.

(37) Fugitive dust—That particulate matter not emitted from a duct or stack which becomes airborne due to the forces of wind or surface coal mining and reclamation operations or both and is carried beyond the boundaries of the area of mining or related activities. During surface coal mining and reclamation operations it may include emissions from haul roads; wind erosion of exposed surfaces, storage piles, and spoil piles; reclamation operations; and other activities in which material is either removed, stored, transported, or redistributed.

(38) Fund—The Abandoned Mine Reclamation Fund established pursuant to Section 401 of the federal Act.

(39) General area—With respect to hydrology, the topographic and ground water basin surrounding a mine plan area which is of sufficient size, including areal extent and depth, to include one or more watersheds containing perennial streams and ground water zones and to allow assessment of the probable cumulative impacts on the quality and quantity of surface and ground water systems in the basins.

(40) Government financing agency—A federal, state, parish, municipal, or local unit of government, or a department, bureau, agency or office of the unit which directly, or through another unit of government, finances construction.

(41) Government financed construction—Construction funded fifty percent or more by funds appropriated from a government financing agency's budget or obtained from general revenue bonds, but shall not mean government financing agency guarantees, insurance, loans, funds obtained through industrial revenue bonds or their equivalent, or in kind payments.

(42) Ground water—Subsurface water that fills available openings in rock or soil materials to the extent that they are considered water saturated.

(43) Half-shrub—A perennial plant with a woody base whose annually produced stems die back each year.

(44) Head-of-hollow fill—A fill structure consisting of any material, other than coal-processing waste and organic material, placed in the uppermost reaches of a hollow where side slopes of the existing hollow measured at the steepest point are greater than twenty degrees or the average slope of the profile of the hollow from the toe of the fill to the top of the fill is greater than ten degrees. In fills with less than 250,000 cubic yards of material, associated with contour mining, the top surface of the fill will be at the elevation of the coal seam. In all other head-of-hollow fills, the top surface of the fill, when completed, is at approximately the same elevation as the adjacent ridge line, and no significant area of natural drainage occurs above the fill draining into the fill area.

(45) Highwall—The face of exposed overburden and coal in an open cut of a surface coal mining activity or for entry to underground mining activities.

(46) Historic lands—Historic or cultural districts, places, as defined by the Department of Interior, Office of Surface Mining Regulations in effect on September 1, 1979, structures or objects, including archaeological and paleontological sites, National Historic Landmark sites, sites listed on or eligible for listing on a state or national register of historic places, sites having religious or cultural significance to native Americans or religious

groups, or sites for which historic designation is pending.

(47) Historically used for cropland:

A. Lands that have been used for cropland for any five or more years out of the ten years immediately preceding the acquisition, including purchase, lease, or option, of the land for the purpose of conducting or allowing through resale, lease or option the conduct of surface coal mining and reclamation operations.

B. Lands that the regulatory authority determines, on the basis of additional cropland history of the surrounding lands and the lands under consideration, that the permit area is clearly cropland but falls outside the specific five-year-in-ten criterion, in which case the regulations for prime farmland may be applied to include more years of cropland history only to increase the prime farmland acreage to be preserved.

C. Lands that would likely have been used as cropland for any five out of the last ten years immediately preceding such acquisition, but for the same fact of ownership or control of the land unrelated to the productivity of the land.

(48) Hydrologic balance—The relationship between the quality and quantity of water inflow to, water outflow from, and water storage in a hydrologic unit such as a drainage basin, aquifer, soil zone, lake, or reservoir. It encompasses the dynamic relationships between precipitation, runoff, evaporation, and changes in ground and surface water storage.

(49) Hydrologic regime—The entire state of water movement in a given area. It is a function of the climate and includes the phenomena by which water first occurs as atmospheric water vapor, passes into a liquid or solid form, falls as precipitation, moves along or into the ground surface, and returns to the atmosphere as vapor by means of evaporation and transportation.

(50) Imminent danger to the health and safety of the public—The existence of any condition or practice, or any violation of a permit or other requirement of this Chapter in a surface coal mining and reclamation operation, which condition, practice, or violation could reasonably be expected to cause substantial physical harm to persons outside the permit area before such condition, practice, or violation can be abated. A reasonable expectation of death or serious injury before abatement exists if a rational person, subjected to the same conditions or practices giving rise to the peril, would not expose himself or herself to the danger during the time necessary for abatement.

(51) Impoundment—A closed basin, naturally formed or artificially built, which is dammed or excavated for the retention of water, sediment, or waste.

(52) Indian lands—All lands, including mineral interests, within the exterior boundaries of any federal Indian reservation, notwithstanding the issuance of any patent, and including rights-of-way, and all lands including mineral interests held in trust for or supervised by an Indian tribe.

(53) Indian tribe—Any Indian tribe, band, group, or community located within the State of Louisiana having a governing body recognized by the Secretary.

(54) Indirect financial interest—The same financial relationships as for direct ownership, but where the employee reaps the benefits of such interests, including interests held by his or her spouse, minor child and other relatives, including in-laws, residing in the employee's home. The employee will not be deemed to have an indirect financial interest if there is no relationship between the employee's functions or duties and the coal mining operation in which the spouse, minor children or other resident relatives hold a financial interest.

(55) In situ processes—Activities conducted on the surface or underground in connection with in-place processing of coal. The term includes, but is not limited to, in situ gasification, in situ leaching, slurry mining, solution mining, borehole mining, and fluid recovery mining.

(56) Intermittent stream—A stream or reach of a stream that drains a watershed of at least one square mile or a stream or reach of a stream that is below the local water table for at least some part of the year and obtains its flow from surface runoff and ground water discharge.

(57) Irreparable damage to the environment—Any damage to the environment that cannot be corrected by actions of the applicant.

(58) Land use—Specific uses or management-related activities, rather than the vegetation or cover of the land. Land uses may be identified in combination when joint or seasonal uses occur. Changes of land use or uses from one category to another shall be considered as a change to an alternative land use which is subject to approval by the Commissioner.

(59) Materially damage the quantity or quality of water—With respect to valley floors, changes in the quality or quantity of the water supply to any portion of a valley floor where such changes are caused by surface coal mining and reclamation operations and result in changes that significantly and adversely affect the composition, diversity, or productivity of vegetation dependent on subirrigation, or which result in changes that would limit the adequacy of the water for flood irrigation of the irrigable land acreage existing prior to mining.

(60) Mine plan area—The area of land and water within the boundaries of all permit areas during the life of the surface coal mining and reclamation operations. At a minimum, it includes all areas which are or will be affected during the entire life of those operations. Other terms defined in this Section which relate closely to mine plan area are: (a) permit area, which will always be within or the same as the mine plan area; (b) affected area, which will always be within or the same as the permit area and (c) adjacent area, which may surround or extend beyond the affected area, permit area, or mine plan area.

(61) Moist bulk density—The weight of soil (oven dry) per unit volume. Volume is measured when the soil is at field moisture capacity (one third bar moisture tension). Weight is determined after drying the soil at 105°C.

(62) Mulch—Vegetation residues or other suitable materials that aid in soil stabilization and soil moisture conservation, thus providing micro-climatic conditions suitable for germination and growth.

(63) Natural hazard lands—Geographic areas in which natural conditions exist which pose or, as a result of surface coal mining operations, may pose a threat to the health, safety or welfare of people, property or the environment, including areas subject to landslides, cave-ins, large or encroaching sand dunes, severe wind or soil erosion, frequent flooding, avalanches and areas of unstable geology.

(64) Noxious plants—Species that have been included on official Louisiana state lists of noxious plants.

(65) Occupied dwelling—Any building that is currently being used on a regular or temporary basis for human habitation.

(66) Office of Conservation, or Office—Office of Conservation of the Louisiana Department of Natural Resources.

(67) Operator—Any person, partnership, or corporation engaged in coal mining who removes or intends to remove more than two hundred and fifty tons of coal from the earth by surface coal mining methods within twelve consecutive calendar months in any one location.

(68) Outslope—The face of the spoil or embankment sloping downward from the highest elevation to the toe.

(69) Overburden—Material of any nature, consolidated or unconsolidated, that overlies a coal deposit, excluding topsoil.

(70) Perennial stream—A stream or part of a stream that flows continuously during all of the calendar year as a result of ground-water discharge or surface runoff. The term does not include intermittent stream or ephemeral stream.

(71) Performance Bond—A surety bond, collateral bond or

self-bond or a combination thereof, by which a permittee assures faithful performance of all the requirements of the Act, these regulations, this program, and the requirements of the permit and reclamation plan.

(72) Permanent diversion—A diversion remaining after surface coal mining and reclamation operations are completed which has been approved for retention by the Office of Conservation.

(73) Permit—A permit to conduct surface coal mining and reclamation operations issued by the Office of Conservation pursuant to the Act, but does not include exploration and development permits.

(74) Permit area—The area of land and water within the boundaries of the permit which are designated on the permit application maps, as approved by the Office. This area shall include, at a minimum, all areas which are or will be affected by the surface coal mining and reclamation operations during the term of the permit.

(75) Permittee—A person holding a permit.

(76) (a) Person—An individual, partnership, association, society, joint stock company, firm, company, corporation, or other business organization.

(b) Person having an interest which is or may be adversely affected or person with a valid legal interest shall include any person—

(1) Who lawfully uses any resources of economic, recreational, aesthetic, or environmental value that may be adversely affected by coal exploration, development operations, or surface coal mining and reclamation operations or any regulated action of the Commissioner or the Office; or

(2) Whose property is or may be adversely affected by coal exploration, development operations, or surface coal mining and reclamation operations or any related action of the Commissioner or the Office.

(77) Precipitation event—A quantity of water resulting from drizzle, rain, snow, sleet, or hail in a limited period of time. It may be expressed in terms of recurrence interval. As used in these regulations, precipitation event also includes that quantity of water emanating from snow cover as snow-melt in a limited period of time.

(78) Prime farmland—Shall have the meaning prescribed by the Secretary of the United States Department of Agriculture on the basis of such factors as moisture, availability, temperature regime, chemical balance, permeability, surface layer composition, susceptibility to flooding, and erosion characteristics, and which historically has been used for intensive agricultural purposes, and as published in the *Federal Register*.

(79) Principal shareholder—Any person who is the record or beneficial owner of ten percent or more of any class of voting stock.

(80) Prohibited financial interest—Any direct or indirect financial interest in any coal mining operation.

(81) Property to be mined—Both the surface and on subsurface areas and underneath lands which are within the permit area.

(82) Public building—Any structure that is owned by a public agency or used principally for public business, meetings, or other group gathering.

(83) Public office—A facility under the direction and control of a governmental entity which is open to public access on a regular basis during reasonable business hours.

(84) Public park—An area dedicated or designated by a federal, state, or local agency for public recreational use, whether or not such use is limited to certain times or days, including any land leased, reserved, or held open to the public because of that use.

(85) Public road—Any thoroughfare open to the public for passage of vehicles.

(86) Rangeland—Land on which the natural potential (climax) plant cover is principally native grasses, forbs, and shrubs, valuable for forage. This land includes natural grasslands and savannahs, such as prairies, and juniper savannahs, such as brushlands. Except for brush control, management is primarily achieved by regulating the intensity of grazing and season of use.

(87) Recharge capacity—The ability of the soils and underlying minerals to allow precipitation and runoff to infiltrate and reach the zone of saturation.

(88) Reclamation—Those actions taken to restore mined land as required by these regulations to a postmining land use approved by the Commissioner.

(89) Recurrence interval—The interval of time in which a precipitation event is expected to occur once, on the average. For example, a ten-year, twenty-four-hour precipitation event would be that twenty-four-hour precipitation event expected to occur on the average once in ten years.

(90) Reference area—A land unit maintained under appropriate management for the purpose of measuring vegetation ground cover, productivity, and plant species diversity that are produced naturally by crop production methods approved by the Office of Conservation. Reference areas must be representative of geology, soil, slope, and vegetation in the permit area.

(91) Regional Director—A Regional Director of the Federal Office or a Regional Director's representative.

(92) Renewable resource lands—Aquifers and areas for the recharge of aquifers and other underground waters, areas for agricultural or silvicultural production of food and fiber, and grazing lands.

(93) Roads—A surface right-of-way for purposes of travel by land vehicles used in coal exploration, development, or surface coal mining and reclamation operations. A road consists of the entire area within the right-of-way, including the roadbed, shoulders, parking and side area, approaches, structures, ditches, surface, and such contiguous appendages as are necessary for the total structure. The term includes access and haul roads constructed, used, reconstructed, improved, or maintained for use in coal exploration, development, or surface coal mining and reclamation operations, including use by coal-hauling vehicles leading to transfer, processing, or storage areas. The term does not include pioneer or construction roadways used for part of the road construction procedure and promptly replaced by a Class I, Class II, or Class III road located in the identical right-of-way as the pioneer or construction roadway. The term also excludes any roadway within the immediate mining pit area.

(94) Safety factor—The ratio of the available shear strength to the developed shear stress, or the ratio of the sum of the resisting forces to the sum of the loading or driving forces, as determined by accepted engineering practices.

(95) Secretary—The Secretary of the Louisiana Department of Natural Resources.

(96) Secretary of Interior—The Secretary of the United States Department of the Interior.

(97) Sedimentation pond—A primary sediment control structure designed, constructed, and maintained in accordance with Section 216.46 of the regulations and including, but not limited to, a barrier, dam, or excavated depression which slows down water runoff to allow sediment to settle out. A sedimentation pond shall not include secondary sedimentation control structures, such as straw dikes, riprap, check dams, mulches, dugouts, and other measures that reduce overland flow velocity, reduce runoff volume or trap sediment to the extent that such secondary sedimentation structures drain to a sedimentation pond.

(98) Self-bond—An indemnity agreement in a sum certain payable to the Commissioner executed by the permittee and each individual and business organization capable of influencing

or controlling the investment or financial practices of the permittee by virtue of his authority as an officer or ownership of all or a significant part of the permittee, and supported by agreements granting the Commissioner a security interest in the real or personal property pledged to secure performance by the permittee.

(99) Significant, imminent environmental harm to land, air, or water resources:

A. An adverse impact on land, air, or water resources which include plant and animal life.

B. A condition, practice, or violation which is causing harm or may reasonably be expected to cause harm before the end of the reasonable abatement time that would be set under Section 921(A)(3) of the Act.

C. A harm which is appreciable and not immediately reparable.

(100) Significant forest cover—An existing plant community consisting predominantly of trees and other woody vegetation.

(101) Slope—Average inclination of a surface, measured from the horizontal, generally expressed as the ratio of a unit of vertical distance to a given number of units of horizontal distance (e.g., 1v:5h). It may also be expressed as a percent or in degrees.

(102) Soil horizons—Contrasting layers of soil parallel or nearly parallel to the land surface. Soil horizons are differentiated on the basis of field characteristics and laboratory data. The three major soil horizons are:

A. A horizon—The uppermost mineral layer, often called the surface soil. It is the part of the soil in which organic matter is most abundant, and leaching of soluble or suspended particles is typically the greatest.

B. B horizon—The layer that typically is immediately beneath the A horizon and often called the subsoil. This middle layer commonly contains more clay, iron, or aluminum than the A or C horizon.

C. C horizon—The deepest layer of soil profile. It consists of loose material or weathered rock that is relatively unaffected by biologic activity.

(103) Soil survey—A field and other investigation, resulting in a map showing the different kinds of soils and an accompanying report that describes, classifies, and interprets such soils for use. Soil surveys must meet the standards of the National Cooperative Soil Survey as incorporated by reference in Section 185.17(a)(1).

(104) Spoil—Overburden that has been removed during surface coal mining operations.

(105) Stabilize—To control movement of soil, spoil piles, or areas of disturbed earth by modifying the geometry of the mass, or by otherwise modifying physical or chemical properties, such as by providing a protective surface coating.

(106) State regulatory authority—The Louisiana Office of Conservation.

(107) Steep slope—Any slope of more than twenty degrees or such lesser slope as may be designated by the Commissioner after consideration of soil, climate, and other characteristics of a region.

(108) Substantial legal and financial commitments — Significant investments that have been made on the basis of a long-term coal contract in power plants; railroads; coal-handling, preparation, extraction or storage facilities; and other capital intensive activities. An example would be an existing mine, not actually producing coal, but in a substantial stage of operational completion prior to production. Costs of acquiring the coal in place of the right to mine it without an existing mine, as described in the above example, alone, are not sufficient to constitute substantial legal and financial commitments.

(109) Successor in interest—Any person who succeeds to rights granted under a permit, by transfer, assignment, or sale of those rights.

(110) Surety bond—An indemnity agreement in a sum cer-

tain payable to the Commissioner executed by the permittee which is supported by the performance guarantee of a corporation licensed to do business as a surety in this state.

(111) Surface coal mining—All surface coal mining operations which are being conducted on August 3, 1977.

(112) Surface coal mining operations:

A. Activities conducted on the surface of lands in connection with a surface coal mine, the products of which enter commerce or the operations of which directly or indirectly affect commerce. Such activities include excavation for the purpose of obtaining coal, including such common methods as contour, strip, auger, mountaintop removal, box cut, open pit, and area mining, the uses of explosives and blasting, and in situ distillation or retorting, leaching or other chemical or physical processing, and the cleaning, concentrating, or other processing or preparation, loading of coal at or near the mine site; provided, however, that such activities do not include the extraction of coal incidental to the extraction of other minerals where coal does not exceed 16⅓ percent of the tonnage of minerals removed for purposes of commercial use or sale or coal exploration or development subject to Section 912 of the Act.

B. The areas upon which such activities occur or where such activities disturb the natural land surface. Such areas shall also include any adjacent land the use of which is incidental to any such activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of such activities and for haulage, and excavations, workings, impoundments, dams, ventilation shafts, cutaways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas and other areas upon which are sited structures, facilities, or other property or materials on the surface, resulting from or incidental to such activities.

(113) Surface coal mining and reclamation operations—Surface coal mining operations and all activities necessary or incidental to the reclamation of such operations. This term includes the term surface coal mining operations.

(114) Surface mining activities—Those surface coal mining and reclamation operations incident to the extraction of coal from the earth by removing the materials over a coal seam before recovering the coal, by auger coal mining, or by recovery of coal from a deposit that is not in its original geologic location.

(115) Suspended solids, or nonfilterable residue, expressed as milligrams per liter—Organic or inorganic materials carried or held in suspension in water which are retained by a standard glass fiber filter in the procedure outlined by the Environmental Protection Agency's regulations for waste water analyses (40 CFR 136).

(116) Temporary diversion—A diversion of a stream or overland flow which is used during coal exploration or development operations and not approved by the Office of Conservation to remain after reclamation as part of the approved post-mining land use.

(117) Ton—Two thousand pounds avoirdupois (.90718 metric ton).

(118) Topsoil—The A soil horizon layer of the three major horizons.

(119) Toxic-forming materials—Earth minerals or wastes which, if acted upon by air, water, weathering, or microbiological processes, are likely to produce chemical or physical conditions in soils or water that are detrimental to biota or uses of water.

(120) Toxic-mine drainage—Water that is discharged from active or abandoned mines or other areas affected by coal exploration or development operations or surface coal mining and reclamation operations, which contains a substance that through chemical action or physical effects is likely to kill, injure,

or impair biota commonly present in the area that might be exposed to it.

(121) Transfer, assignment, or sale of rights—A change in ownership or other effective control over the right to conduct surface coal mining operations under a permit issued by the Office of Conservation.

(122) Unwarranted failure to comply—The failure of a permittee to prevent or abate the occurrence of any violation of his permit or any requirement of this Chapter due to indifference, lack of diligence, or lack of reasonable care.

(123) Valley fill—A fill structure consisting of any material other than coal waste and organic material that is placed in a valley where side slopes of the existing valley measured at the steepest point are greater than twenty degrees or the average slope of the profile of the valley from the toe of the fill to the top of the fill is greater than ten degrees.

(124) Violation notice—Any written notification from a governmental entity of a violation of the law, whether by letter, memorandum, legal or administrative pleading, or other written communication.

(125) Water table—The upper surface of zone saturation, where the body of ground water is not confined by an overlying impermeable zone.

(126) Willful violation—An act or omission which violates the Act, state, federal laws or regulations, or individual permit conditions, committed by a person who intends the result which actually occurs.

100.11 Applicability. This Part applies to all coal exploration, development operations, and surface coal mining and reclamation operations, except:

(a) The extraction of coal by a landowner for his or her own noncommercial use from land owned or leased by the landowner. Noncommercial use does not include the extraction of coal by one unit of an integrated company or other business or nonprofit entity which uses the coal in its own manufacturing or power plants.

(b) The extraction of coal for commercial purposes where the surface coal mining and reclamation operation affects two acres or less, but not any such operation conducted by a person who affects or intends to affect more than two acres at physically related sites, or any such operation conducted by a person who affects or intends to affect more than two acres at physically unrelated sites within one year.

(c) The extraction of two hundred fifty tons of coal or less by a person conducting a surface coal mining and reclamation operation. A person who intends to remove more than two hundred fifty tons is not exempted.

(d) The extraction of coal as an incidental part of federal, state, or local governmental-financed highway or other construction in accordance with Part 107.

(e) The extraction of coal incidental to the extraction of other minerals where coal does not exceed 16⅓ percent of the mineral tonnage removed for commercial use or sale.

(f) The extraction of coal on Indian lands in accordance with 25 CFR 177, Subpart B.

(g) Coal exploration on federal lands outside a permit area.

100.13 Notice of citizen suits.
(a) A person who intends to initiate a civil action on his or her own behalf under Section 920 of the Act shall give notice of intent to do so, in accordance with this Section.

(b) Notice shall be given by certified mail to the Secretary, the Director and the Commissioner in all cases. A copy of the notice shall be sent by first class mail to the Regional Director if the complaint involves or relates to surface coal mining and reclamation operations in a specific region of the Federal Office.

(c) Notice shall be given by certified mail to the alleged violator, if the complaint alleges a violation of the Act or any regulation, order, or permit issued under the Act.

(d) Service of notice under this Section is complete upon

mailing to the last known address of the person being notified.

(e) A person giving notice regarding an alleged violation shall state, to the extent known:

(1) Sufficient information to identify the provision of the Act, regulation, order, or permit allegedly violated.

(2) The act or omission alleged to constitute a violation.

(3) The name, address, and telephone numbers of the person or persons responsible for the alleged violation.

(4) The date, time, and location of the alleged violation.

(5) The name, address, and telephone number of the person giving notice.

(6) The name, address, and telephone number of legal counsel, if any, of the person giving notice.

(f) A person giving notice of an alleged failure by the Commissioner to perform a mandatory act or duty under the Act shall state, to the extent known:

(1) The provision of the Act containing the mandatory act or duty allegedly not performed.

(2) Sufficient information to identify the omission alleged to constitute the failure to perform a mandatory act or duty under the Act.

(3) The name, address, and telephone number of the person giving notice.

(4) The name, address, and telephone number of legal counsel, if any, of the person giving notice.

100.14 Availability of records. Records required by the Act to be made available to the public shall be retained at the Office of Conservation.

100.15 Computation of time.

(a) Except as otherwise provided, computation of time under these regulations is based on calendar days.

(b) In computing any period of prescribed time, the day on which the designated period of time begins is not included. The last day of the period is included unless it is a Saturday, Sunday, or legal holiday on which the Office of Conservation is not open for business, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or legal holiday.

(c) Intermediate Saturdays, Sundays, and legal holidays are excluded from the computation when the period of prescribed time is seven days or less.

Part 101—Permanent Regulatory Program

101.3 Authority. The Commissioner is authorized to administer the requirements of the permanent regulatory program.

101.11 Applicability.

(a) Any person who conducts surface coal mining and reclamation operations on non-Indian or non-federal lands shall have a permit issued pursuant to these regulations.

(b) The requirements of these regulations shall be effective and shall apply to each surface coal mining and reclamation operation which is required to obtain a permit under the Act, on the earliest date upon which these regulations require a permit to be obtained, except as is provided in paragraph (c) of this Section.

(c) (1) Each structure used in connection with or to facilitate a coal exploration, development, or surface coal mining and reclamation operation shall comply with the performance standards and the design requirements of these regulations.

(i) An existing structure which meets the performance standards of these regulations but does not meet the design requirements of these regulations may be exempted from meeting those design requirements by the Office. The Office may grant this exemption on non-Indian and non-federal lands only as part of the permit application process after obtaining the information required by 180.12 and after making the findings required in 186.21.

(ii) An existing structure which meets the performance standards of Subchapter B may be exempted by the Office from meeting the design requirements of these regulations. The Office may grant this exemption on non-Indian and

non-federal lands only as part of the permit application process after obtaining the information required by 180.12 and after making the findings required in 186.21.

(iii) An existing structure which meets a performance standard of Subchapter K or which does not meet a performance standard of Subchapter K for which there was no equivalent performance standard in Subchapter B shall be modified or reconstructed to meet the design standard of these regulations pursuant to a compliance plan approved by the Office on non-Indian and non-federal lands only as part of the permit application as required in 180.12 and according to the findings required by 186.21.

(iv) An existing structure which does not meet the performance standards of Subchapter B and which the applicant proposes to use in connection with or to facilitate exploration, development, or surface coal mining and reclamation operation shall be modified or reconstructed to meet the design standards of these regulations prior to issuance of the permit.

(2) The exemptions provided in Paragraph (c)(1)(i) and (c)(1)(ii) shall not apply to:

(i) The requirements for existing and new waste piles used either temporarily or permanently as dams or embankments.

(ii) The requirements to restore the approximate original contour of the land.

(d) (1) Any person conducting coal exploration or development operations on non-federal and non-Indian lands on or after the date on which the Louisiana state program is approved shall file a notice of intention to explore or develop and obtain approval of the Office as required by Part 176.

(2) Coal exploration and development performance standards in these regulations shall apply to coal exploration or development operations on non-federal and non-Indian lands which substantially disturbs the natural land surface.

Part 105—Restriction of Financial Interests of Employees.

105.3 Authority. The Commissioner is authorized to establish, monitor, and enforce the regulations contained in this Part. The Governor or the Commissioner is authorized to expand the provisions in this Part in order to meet the particular needs within the state.

105.4 Responsibility.

(a) The Commissioner shall:

(1) Provide advice, assistance, and guidance to all state employees required to file statements pursuant to 105.11.

(2) Promptly review the statement of employment and financial interests and supplements, if any, filed by each employee, to determine if the employee has correctly identified those listed employment and financial interests which constitute a direct or indirect financial interest in any surface coal mining operation.

(3) Resolve prohibited financial interest situations by ordering or initiating remedial action or by reporting the violations to the Director who is responsible for initiating action to impose the penalties of the Federal Act.

(4) Certify on each statement that review has been made, that prohibited financial interests, if any, have been resolved, and that no other prohibited interests have been identified from the statement.

(5) Submit to the Director such statistics and information as he or she may request to enable preparation of the required annual report to Congress.

(6) Submit to the Director the initial listing and the subsequent annual listings of positions as required by 30 CFR 705.11 (b), (c), and (d).

(7) Furnish a blank statement forty-five days in advance of the filing date established by Section 105.13 (a) to each state employee required to file a statement.

(8) Inform annually each state employee required to file a statement with the Commissioner of the name, address, and